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**THE LEGAL ASPECTS OF GIRLS' INTERSCHOLASTIC  
ATHLETICS: A SUMMARY OF LITIGATION INVOLVING  
THE PARTICIPATION, RULES, AND REGULATIONS OF  
THE INTERSCHOLASTIC HIGH SCHOOL ATHLETIC  
ASSOCIATIONS IN EACH STATE FROM 1971-1977.**

**THE UNIVERSITY OF NORTH CAROLINA AT  
GREENSBORO, ED.D., 1978**

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RULES, AND REGULATIONS OF THE INTERSCHOLASTIC  
HIGH SCHOOL ATHLETIC ASSOCIATIONS IN EACH  
STATE FROM 1971-1977

by

William L. Russell

A Dissertation Submitted to  
the Faculty of the Graduate School at  
The University of North Carolina at Greensboro  
in Partial Fulfillment  
of the Requirement for the Degree  
Doctor of Education

Greensboro  
1978

Approved by

  
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APPROVAL PAGE

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## ABSTRACT

Russell, William Leonard. The Legal Aspects of Girls' Interscholastic Athletics: A Summary of Litigation Involving the Participation, Rules, and Regulations of the Interscholastic High School Athletic Associations in Each State from 1971-1977. (1978)

Directed by: Dr. Gail Murl Hennis. Pp. 330

This study examines the findings of twenty-six court cases involving sex discrimination of the female athlete by the State High School Athletic Associations and their allied members. An evaluation of the litigation was made to determine whether the rules and regulations of the State Associations were discriminatory. In each case it was the responsibility of the courts to determine if the existing rules were in violation of the federal laws of the United States.

The courts were asked to rule on six specific complaints made against the Associations. These included separate game rules for males and females, inconsistent scheduling practices, disallowing mixed competition for non-contact sports, disallowing mixed competition for contact sports, depriving married female students of the right to participate and unequal distribution of funds.

The litigation was brought to the courts under the jurisdiction of the Civil Rights Acts, Title IX of the

Education Amendments Act, the Fourteenth Amendment to the Constitution of the United States, and State Equal Rights Amendments.

The litigation involving the State Equal Rights Amendment was cited three times and Title IX was cited on two occasions. The Fourteenth Amendment was cited in the litigation in all twenty-six cases. There were three separate parts to this amendment included in the litigation. The Equal Protection Clause was used twenty-five times, State Action twelve times and Due Process on nine occasions. The Civil Rights Acts were cited in each of the twenty-six cases.

Of the six complaints that resulted in litigation against the Associations, thirteen cases were found to be in violation by the courts. Girls argued for and were granted the right to be a member of a mixed team in noncontact sports in nine cases, and were allowed to integrate boys' teams in contact sports on three occasions. The female who was barred from competition as a result of her marital status was reinstated by the court.

It has been established that the Associations have the authority to govern interscholastic athletics. This includes establishing rules and regulations that control the number and types of activities to be offered, as well as

determining those eligible to participate. However, recent litigation has made it necessary for numerous Associations to re-evaluate their existing programs.

The major challenge to the rules and regulations of the Associations has been directed toward eligibility requirements. These, along with the imbalance between the girls' and boys' programs, have created a situation which each Association must consider.

There are several possible implications for girls' interscholastic athletics. Undoubtedly, Title IX will continue to provide more opportunities for the female athlete in separate, contact and coed sports. Greater budget expenditures will be made for girls and more opportunities should be available for women in athletic administration. Separate but equal programs will continue to be the most popular organization of both men and women coaches. However, the three-team concept (coed, boys, and girls) could, in the final analysis, provide the compromise necessary to satisfy both the law and those that administer the program.

## ACKNOWLEDGMENTS

The writer wishes to express his grateful appreciation to his dissertation advisor, Dr. Gail Hennis, whose patience, understanding and guidance were invaluable throughout the study. The writer also wishes to thank the other members of his examining committee for their direction, assistance, and constructive criticism.

The writer is indebted to Dr. Milt Reece, Dr. Jay Robinson, and Dr. Herb Appenzeller for assisting in identifying and securing pertinent data necessary for the study. The excellent typing of Mrs. Susan Royster and Mrs. Jackie Black and the proofreading of Mrs. Rebecca Kessler were most essential.

Special thanks are given to my wife Suzanne and children Ashley and Scott for their patience and inspiration during the past several years. Without their support, the successful completion of this study would have been impossible.

## TABLE OF CONTENTS

	Page
APPROVAL PAGE. . . . .	ii
ACKNOWLEDGMENTS. . . . .	iii
LIST OF TABLES . . . . .	vii
 CHAPTER	
I. INTRODUCTION . . . . .	1
Statement of the Problem. . . . .	2
Purpose of the Study. . . . .	4
Need for the Study. . . . .	6
Scope of the Study. . . . .	7
Limitations of the Study. . . . .	9
Methodology . . . . .	10
Definitions of Terms. . . . .	10
Background for the Study. . . . .	16
Collection of Data. . . . .	30
Organization of Data. . . . .	47
Analysis of Data. . . . .	48
II. CONTROL OF HIGH SCHOOL INTERSCHOLASTIC ATHLETICS .	51
Scope of Activities . . . . .	60
Girls' Athletics Within the State	
Associations. . . . .	71
Problems Associated with the Girls' Program . .	84
III. LEGAL STATUS AND SELECTED RULES OF THE STATE	
HIGH SCHOOL ATHLETIC ASSOCIATIONS. . . . .	92
Legal Status of State Associations. . . . .	93
Eligibility . . . . .	103
Due Process . . . . .	111
Appeal Procedures . . . . .	116

Chapter	Page
IV. CONSTITUTIONAL LAWS INVOLVED IN THE LITIGATION ON STATE HIGH SCHOOL ATHLETIC ASSOCIATIONS. . . . .	121
Interpretations of Constitutional Amendments. .	129
Title IX of the Education Amendments Act of 1972 . . . . .	134
V. LITIGATION AND THE STATE HIGH SCHOOL ATHLETIC ASSOCIATIONS . . . . .	139
Summary . . . . .	222
Implications. . . . .	233
VI. SUMMARY, CONCLUSIONS, AND IMPLICATIONS . . . . .	241
Findings. . . . .	243
Conclusions . . . . .	248
Implications for Girls' Athletics . . . . .	249
BIBLIOGRAPHY . . . . .	253
APPENDIXES . . . . .	267
A. Desirable Practices in Athletics for Girls and Women. . . . .	267
B. The Constitution of the Illinois League of High School Girls' Athletic Associations, 1944 . . . . .	272
C. Results on an Experiment for Coed Teams, New York State Education Department. . . . .	278
D. 1976 Sports Participation Survey . . . . .	284
E. Iowa Girls' High School Athletic Union Participation Growth 1970 Through 1976 . . . . .	319
F. National Federation of State High School Associations' Recommended Athletic Eligibility Standards. . . . .	320

Chapter	Page
G. Title IX Regulations - Section 86.41. . . . .	324
H. Title IX Questions and Answers. . . . .	326
I. Table of Cases. . . . .	329

## LIST OF TABLES

Table	Page
1. Activities Sanctioned by State Associations . . . .	38
2. Sports in Which the Plaintiff was Seeking Participation . . . . .	45
3. Judicial Decisions of the Litigation. . . . .	49
4. Governing Boards of State Associations by Number of Members, Length of Term, Representation, and Membership Eligibility. . . .	53
5. Number of Administrative Staff, Support Staff, Associations Incorporated, Statutory Status, and Agency Control of State High School Associations, 1974-75 . . . . .	57
6. Girls Participating on Boys' Teams, Number of Sports Offered Both Boys and Girls by State High School Associations, and Grade Levels Included. . . . .	62
7. High School State Championships, 1974-75. . . . .	64
8. Regulations on Age, Academic Requirements, and Physical Examination Requirements: Restrictions on Summer Camp Attendance, All-Star Contests, and Coaches' Faculty Status, 1974-75. . . . .	108
9. Jurisdiction of the Litigation. . . . .	123
10. Litigation Involving the Fourteenth Amendment . . .	124
11. Litigation Involving Civil Rights and Judicial Procedures. . . . .	130



## Chapter I

### INTRODUCTION

An examination of girls' interscholastic athletics today reveals a vivid picture of a program in transition. The nature and growth of these programs vary considerably from state to state. Some have been in existence for a number of years, many are in various stages of development, and still others are just beginning. Even with this wide range in development, the majority of these programs have at least one thing in common--each is experiencing change and each is receiving overdue recognition.

The recognition of girls' athletic programs has not occurred without both conflict and controversy. The reasons for their growth and popularity are numerous. Undoubtedly, one of the most prevalent is the women's rights movement. This movement has projected equal rights and sex bias to the forefront. The meager or nonexistent program for girls provides an excellent example of sex bias in our schools. The disparities existing between boys' and girls' programs are being brought to the attention of the public almost daily.

Most educators would agree that the role of interscholastic athletics is accepted and recognized as a vital part of the total educational process. However, it is also obvious there is a growing dissatisfaction with many aspects of the existing programs. The major portion of this dissatisfaction has been directed toward those largely responsible for administering the athletic programs, the State Athletic Associations. Traditionally, these voluntary organizations have operated with very little criticism or opposition from individuals, groups or courts of law. The present trend clearly indicates that this status is changing. The possibility of judicial litigation has become commonplace for numerous Associations. Initially, the criticism and litigation were instigated by male students; more recently girls have become more vocal and active. The fact that girls are becoming more involved has added a new and interesting dimension to the already growing list of problems for the Associations.

#### STATEMENT OF THE PROBLEM

During the past seven years public attention has shifted from a mild interest in girls' athletics to a new and unprecedented demand for equality. Human rights,

discrimination, sex bias and equal opportunity have become familiar words when the topic of athletics is mentioned. This desire for equality has resulted not only in the development of lawsuits, but in the enactment of new laws as well.

Since 1969, largely because of policies and practices mandated by Athletic Associations, both individuals and groups have begun to question the legal authority of their respective Associations as it pertains to girls' athletics. At one time standards presented by State Associations were accepted without question. When rules were violated resulting disciplinary action was accepted. Recently, however, many of the rules and regulations have come under attack. This attack has taken the form of a series of lawsuits.

As early as 1895 rules were being established to control high school athletics. By the mid-twenties the majority of states had formed Associations for this purpose. Now each of the fifty states has its own Association. The first recorded court action questioning the legal authority of a State Athletic Association occurred in Ohio in 1924.<sup>1</sup> Fourteen years elapsed before the next cases developed.

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<sup>1</sup>National Federation of State High School Associations Handbook, 1974-75, p. 65.

However, there have been over fifty cases in the past five years. Of these, twenty-five specifically relate to a girl's right to participate in athletic programs. The majority of these challenges have focused directly on the equal protection clause of the Fourteenth Amendment of the United States Constitution.

With each new lawsuit the State Athletic Associations have had to defend their rules and regulations. They have had to justify their legal authority and responsibility to all participants, both boys and girls. The judicial decisions of the courts will, in the final analysis, determine the legal function of each Association.

#### PURPOSE OF THE STUDY

It was the purpose of this study to examine and analyze the legal aspects of court cases dealing with girls' participation in interscholastic athletics. From this investigation an attempt will be made to determine what implications these decisions will have for the future of the girls' programs that are administered by the various State Athletic Associations.

In past years the courts generally have held that State High School Associations are voluntary Associations

and that the courts will not interfere unless rules are illegal, or arbitrary, unreasonable and capricious. It should be noted that there have been few successful challenges, especially at the appeals level. Courts generally have been reluctant to interfere with the wishes of school officials. However, Johnson reported that in the five years prior to 1973 judges had consistently been finding eligibility rules unconstitutional. He emphasized that school personnel and officials of State High School Athletic Associations might consider these rulings as a trend that could have implications for other rules and regulations.<sup>2</sup>

No doubt the recent and continuous litigation relating to the right of the female athlete to participate should help substantiate Johnson's theory. This particular litigation has come about, for the most part, because of the limitations imposed by State Athletic Associations.

One of the most publicized issues in our country today deals with the discrimination against women. This fact is supported by the recent litigation in this area,

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<sup>2</sup>T. Page Johnson, "The Courts and Eligibility Rules: Is a New Attitude Emerging?," Journal of Health, Physical Education and Recreation, (February, 1973), 4422:34-36.

the rapid growth of women's organizations promoting women's rights, and the actual changes that have occurred and are continuing to occur because of these concerns. The right of the young woman to participate in high school athletics has received its share of attention.

This study has attempted to determine whether the various State Interscholastic Athletic Associations do in fact have legal authority to regulate and govern athletic participation. Additionally, it has sought to ascertain whether the stated rules, regulations and policies provide equality, justice and opportunity for the female participant.

#### NEED FOR THE STUDY

The current changes and recognition that girls' athletics is experiencing indicate a definite transitional period for their program. Because of this development this study should be both timely and significant. With this sudden surge of popularity, a great deal of information is being published concerning possible changes. However, nothing has been written which deals directly with court litigation and the right of the female to participate in the interscholastic athletic program. This research covered

the period from 1971-1977 and included only those judicial decisions that involve the rules and regulations of the Associations as they relate to girls' athletics.

#### SCOPE OF THE STUDY

This study examined the results of court decisions rendered by State, District, and Federal Courts involving the rules and regulations of the State High School Athletic Associations as they pertain to girls' athletics. These court decisions determined whether the rules and regulations provide for fair and equal treatment for all participants as well as the individual member schools.

The majority of these court cases involved action by a female plaintiff against her respective high school regulatory body. Each attempted to seek relief from the controlling regulations of the Association. Generally, the cases have fallen into two categories: (1) a plaintiff requested the right to participate on the boys' athletic teams when no girls' team existed; and (2) the plaintiff requested the right to participate on the boys' team even though there was a girls' team.

In order to focus on the role of the female athlete the following questions were used as a guide for this study:

- A. What is the legal status of each State Athletic Association?
  - 1. Is the Association part of state government?
  - 2. Is the Association an independent body?
  - 3. What is the Association's responsibility to the State?
  - 4. What is the Association's legal authority in imposing sanctions on individual schools and/or participants?
  - 5. What recourse is provided for those found in violation?
  - 6. What is the philosophy of each Association in regard to girls' athletics?
- B. According to court decisions are the State Associations in compliance with the federal laws?
  - 1. Are the State Associations in violation of the Fourteenth Amendment to the United States Constitution?
  - 2. Are the State Associations in violation of Title IX of the Educational Amendments Act of 1972?
  - 3. Are the State Associations in violation of the Civil Rights Acts?
- C. Under the rules and regulations of each State Association is provision made for a balanced program for both males and females?



1. Are there equal opportunities for both sexes to participate?
  2. Are comparable facilities available?
  3. Is there equal funding?
  4. Is scheduling basically the same?
- D. What are the implications for girls' athletics as a result of the court litigation?
1. Will there be separate but equal teams?
  2. Will there be a quota system?
  3. Will there be mixed competition?
  4. Will there be separate and mixed teams?

#### LIMITATIONS OF THE STUDY

This study was limited to court litigation involving the State High School Athletic Associations, its member institutions, the National Federation of State High School Associations, of which each State Association is a member, and the female student-athlete.

In each of the fifty states there exists an Association which has the responsibility for regulating

interscholastic athletics in its respective state. Several of the State Associations have been challenged with lawsuits in recent years. The majority of this litigation has focused on the male athlete. This study will deal only with litigation resulting from complaints involving the female athlete.

### METHODOLOGY

The method used for obtaining data for this study was the Documentary Content Analysis. On the basis of the analysis only those cases dealing with the high school female were reviewed for inclusion in this study. In addition, the rules and regulations of the State Associations were classified and categorized. The content of the documents from the court was analyzed for the purpose of determining either their support for or reversal of the existing regulations.

### DEFINITION OF TERMS

State High School Athletic Association. In each of the fifty states there is an Interscholastic High School Athletic Association to which membership is voluntary. Virtually all high schools within a given state belong to the Association and are governed by its rules. Membership is required in

order to compete with any other member school. Policies, regulations and standards are formulated by those who administer the programs within the school--principals, athletic directors and coaches.

The legal status of the State Associations varies. In some states the organization operates as an independent body and in others it is considered an instrument of the state. The majority are designated as independent, quasi-governmental organizations responsible to the schools. In recent years the legal aspect of the State Associations has become an increasing concern because of the frequency of court action.<sup>3</sup>

State High School Activities Association. This is a title used by some states instead of High School Athletic Association. Its functions are basically the same. In some instances the Activities Associations also include extra-curricular activities not in the athletic area.<sup>4</sup>

Title IX of Education Amendments of 1972. Title IX refers to that portion of the Education Amendments of 1972 which

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<sup>3</sup>National Federation, op. cit., p. 64.

<sup>4</sup>Ibid., p. 49.

forbids discrimination on the basis of sex in educational programs or activities which receive federal funds.<sup>5</sup>

Fourteenth Amendment. This amendment to the Constitution of the United States provides that no state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.<sup>6</sup>

Title VII of the 1964 Civil Rights Act. This portion of the Civil Rights Act prohibits all employers, even those which do not have federal monies, from employment discrimination on the basis of sex, race, color, religion or national origin.<sup>7</sup>

Equal Pay Act of 1963. This Act prohibits all employers from sex discrimination in salaries.<sup>8</sup>

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<sup>5</sup>Title IX of the Education Amendments of 1972. U.S. Congress, Title IX Educational Amendments of 1972, Pub. L.93568, Federal Register 40, No. 108, 4 June, 1975, p. 24128.

<sup>6</sup>Owen J. Roberts and William O. Douglass, "United States Constitution," The World Book Encyclopedia, (1966), U-V, p. 143.

<sup>7</sup>"Revolution in Women's Sports," Women's Sports, 1 (September, 1974), p. 44.

<sup>8</sup>Ibid.

Equal Rights Amendment. This is a proposed amendment to the Constitution of the United States which provides that equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex.<sup>9</sup>

Reasonableness. Agreeable to reason: not excessive, capricious, or arbitrary is the legal definition of reasonableness.

Due Process. The governmental powers that protect individual rights are referred to as due process. Examples would include (1) the right to be represented by counsel; (2) the opportunity to confront and cross-examine adverse witnesses; and (3) adequate notice detailing the charges facing the individual.<sup>10</sup>

National Federation of State High School Associations. The National Federation consists of the fifty individual State High School Athletic Associations and the Association of the District of Columbia. Also affiliated, are eight interscholastic organizations from the Canadian Provinces of

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<sup>9</sup>Ibid., p. 45.

<sup>10</sup>Jay M. Robinson, "The Development of A Model and Bylaws for A High School Activities Association for the State of North Carolina" (Doctoral dissertation, Duke University, 1976), p. 77.

Alberta, British Columbia, Manitoba, New Brunswick, Nova Scotia, Ontario, Prince Edward Island and Saskatchewan.

These state and provincial Associations have united to secure the benefits of cooperative action which eliminate unnecessary duplication of ideas of all who are engaged in the administration of high school athletic and activities programs.<sup>11</sup>

Interscholastic Athletics. Interscholastic athletics is an organized program of athletic competition between teams of different schools. There is a prearranged schedule including tournament play, preseason practice periods and formal coaching. This differs from intramural programs which are restricted to athletic activity among students of the same school.

Contact Sports. Contact sports as identified by Title IX include boxing, wrestling, rugby, ice hockey, football, basketball, and other sports which have as their major activity bodily contact.<sup>12</sup>

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<sup>11</sup>National Federation of State High School Associations Handbook, 1974-75, p. 6.

<sup>12</sup>Richard A. Rubin, "Sex Discrimination in Interscholastic High School Athletics," Syracuse Law Review, 25 (Spring, 1974), p. 535.

Noncontact Sports. These consist of swimming, golf, tennis, track, and similar activities where bodily contact tends to occur sporadically and usually by accident.<sup>13</sup>

NAGWS (formerly DGWS). The National Association for Girls and Women in Sport is a nonprofit, educational organization that exists to meet the needs of participants, teachers, and administrators of sports programs for girls and women. Its purpose is to promote and develop sports programs that will benefit the participant continuously.<sup>14</sup>

State Action. By virtue of the Fourteenth Amendment there are certain constitutional rights of individuals that are protected in actions arising between the individual and the state. Any action by a governmental body (i.e., a tax-supported institution) is state action and individual constitutional rights are protected.<sup>15</sup>

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<sup>13</sup>Ibid.

<sup>14</sup>National Association for Girls and Women in Sport, NAGWS Guide: Basketball, (August, 1975-August, 1976), p. 5.

<sup>15</sup>Milton E. Reece, "The National Collegiate Athletic Association and the Courts: A Summary of Litigation Involving the Constitutional Laws of the United States and the Rules of the National Collegiate Athletic Association, 1970-1974" (Doctoral dissertation, University of North Carolina at Greensboro, 1975), p. 13.

## BACKGROUND FOR THE STUDY

The role of girls' interscholastic athletics in American schools has undergone a radical change since its beginning at the end of the nineteenth century. As indicated previously, the reasons for this transformation are numerous. As the boys' interscholastic athletic programs have enjoyed a steady and continuous growth since the turn of the century, the girls' programs have been essentially nonexistent until the last fifteen years. Certainly several states, for a number of years, have had some athletic competition involving girls. However, these programs have been completely overshadowed by the offerings provided for boys. Further evidence of this male dominance is reflected in the structure and organization of the National Federation of High School Athletic Associations and the fifty individual High School Athletic Associations. Recent controversies suggest that the present structure of interscholastic athletics is failing to provide equal protection and opportunities for the female athlete.

In an attempt to determine the origin of girls' interscholastic athletics, it is necessary to identify those organizations and groups that have had an influence



on its inception. As early as 1899 there was evidence of the formation of a Women's Basketball Rules Committee which helped to develop the first girls' basketball guide. This same group became the National Women's Basketball Committee in 1905 and functioned within the American Physical Education Association.<sup>16</sup> Women were playing basketball as early as 1892 and the need for some uniformity in rules was essential.

The Amateur Athletic Union (AAU), which has been instrumental in developing and promoting athletic programs for boys and men since 1882, became involved with women's sports in 1914 when it provided opportunities for women to take part in swimming events. By 1923 the AAU approved registration for women in all of the sports under their jurisdiction. However, because of opposition from women physical educators, the majority of school and college females did not take part in AAU meets. This resulted in the AAU's recruiting participants from industrial and recreational groups.<sup>17</sup>

The promotion of athletics by industrial and recreational groups began as early as 1910. While major attention was given to male participants, there was considerable

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<sup>16</sup>Ellen W. Gerber and others, The American Woman Sport (Reading, Massachusetts: Addison-Wesley Publishing Company, 1974), p. 81.

<sup>17</sup>Gerber, op. cit., p. 38.

participation by women and girls, especially in the sports of bowling, basketball, and softball.<sup>18</sup>

As the Amateur Athletic Union gained increasing control over women's athletics, physical educators countered by creating a section on women's athletics within the American Physical Education Association in 1932. This group, known as the National Section on Women's Athletics (NSWA) was generally able to manage its own affairs.

In 1923 the Women's Division of the National Amateur Athletic Federation (NAAF) was founded. This group also provided a means for women physical educators to express their beliefs about competition for girls and women. In 1938 several State High School Athletic Associations became members of the NAAF and endorsed the following general objectives:

Athletic activities for all girls and women;  
suited to the individual's age and capacities;

The individual enjoyment of sport and the  
development of sportsmanship and character rather  
than competitive athletics which stresses the en-  
joyment of spectators or the athletic reputation  
or gate receipts of institutions or communities;

Publicity and awards which emphasize the  
sport and its values rather than its competitors;

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<sup>18</sup>Gerber, op. cit., p. 41.

The use of medical examinations, "follow-up" and supervision as the basis for participation in athletic activities and the training and employment of women leaders qualified to assume responsibility for the physical education and recreation of girls and women.<sup>19</sup>

The major thrust of the Women's Division of the National Amateur Athletic Federation of America was to emphasize participation rather than competition. It was their belief that the "playday" concept was an ideal means of carrying out this theme. They did not disapprove of two schools occasionally participating against each other in friendly rivalry providing the girls and the activity were properly safeguarded. However, such competition was to be the exception and not the rule, with emphasis on the social side and not on winning a championship.<sup>20</sup>

The Society of State Directors of Physical and Health Educators adopted a platform on girls' athletics at its annual meeting in 1930. This group was composed of men and women who had the responsibility of administering state programs of physical and health education in twenty-five

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<sup>19</sup>Charles E. Forsythe, The Administration of High School Athletics (New York: Prentice-Hall, Inc., 1948), p. 363.

<sup>20</sup>Forsythe, op. cit., p. 365.

states. They stressed the need for strict restraints on girls' basketball, while at the same time promoting a more varied sports program. Seventeen years after presenting their platform on girls' athletics, this group adopted the following resolution:

WHEREAS, Approximately fifty percent of the public school enrollment is girls; and

WHEREAS, It is generally agreed that athletics are a part of the regular physical education; therefore,

BE IT RESOLVED, That we, The Society of State Directors of Health and Physical Education, work in close harmony with the National Section on Women's Athletics of the American Association for Health, Physical Education, and Recreation to mutually work out a satisfactory program in agreement with the accepted standards of physical education.<sup>21</sup>

In 1937 the Committee on Standards of the National Section on Women's Athletics of the American Association of Health, Physical Education and Recreation prepared a comprehensive publication on standards in athletics for girls and women. From these standards an adaptation was made entitled "Desirable Practices in Athletics for Girls and Women." The publication included recommended standards for health,

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<sup>21</sup>Society of State Directors of Health and Physical Education, Report of Resolutions Committee (Twenty-first annual meeting, April 19-21, 1947), p. 4.

leadership, sport seasons and practice periods, types of competition, general policies and suggestions on publicity. Since these standards embodied the guiding principles for girls' activities in secondary schools for several years, they have been presented in Appendix A.

As early as 1933 the Department of School Health and Physical Education of the National Education Association expressed concern about the future of girls' athletics. Several recommendations were presented, and in each, emphasis was placed on the safety and comfort of the female participant. Clean and safe facilities that could accommodate all interested participants were considered essential. The presentation of valuable awards such as sweaters and medals was discouraged and games were to be played for the benefit of the individual and not for gate receipts or spectators.<sup>22</sup> One wonders why the same concern was not expressed for the young male athlete.

As a result of its affiliation with each of the fifty State High School Athletic Associations, the National Federation of High School Associations considered itself in a favorable position to report on the progress of girls'

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<sup>22</sup>Forsythe, op. cit., p. 369.

interscholastic athletics. Beginning in 1969, the National Federation, at its annual convention, found it necessary to devote more time to deal with the problems and concerns of girls' athletics.

Phil Eskew, Commissioner of the Indiana High School Athletic Association, in an address to the 1975 National Federation Assembly, pointed out that during the 1920's numerous high schools had girls' athletic teams, especially in basketball. However, when the depression came many schools were forced to drop the girls' teams. After a period of time, boys' junior varsity teams became popular and at the same time there developed an attitude that sports were unladylike for girls.<sup>23</sup>

The states of Illinois, Wisconsin, and Virginia shared similar experiences relating to their early sports programs for girls. In Illinois, it is reported that during the 1900's high school girls' interscholastic athletics suffered the same abuses and misuses as boys' athletics. During this time individuals in the medical and physical education professions were convinced that athletic competition was harmful

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<sup>23</sup>Phil N. Eskew, "Financing Girls' Programs" (paper presented at the 56th annual meeting of the National Federation of State High School Associations, San Diego, California, July 9, 1975).

for girls. This resulted in the Illinois High School Athletic Association prohibiting girls' interscholastic competition in all sports in 1916. Unfortunately, this resulted in girls participating in programs outside the school that had much less regard for the health and welfare of the participants.<sup>24</sup>

By 1924 it was recognized that basketball for girls in Wisconsin was becoming very popular. However, the same types of questions and concerns that prevailed in Illinois were also developing in Wisconsin, with the result that the Wisconsin Interscholastic Athletic Association (WIAA) offered an amendment in 1926 prohibiting all interscholastic athletic competition for girls. It was not until 1965 that the WIAA ratified an amendment that read, "It shall be the duty of the Board of Control to regulate sports activities for girls."<sup>25</sup>

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<sup>24</sup>Ola M. Bundy, "State Association Programs for Girls" (paper presented at the 51st annual meeting of the National Federation of State High School Associations, Seattle, Washington, July 8, 1970).

<sup>25</sup>John E. Roberts, "Projecting Policies and Procedures for Girls' Athletics" (paper presented at the National Federation of State High School Associations Midwinter Conference, New Orleans, Louisiana, January 5, 1972).

In 1973, Boie, president of the Wisconsin Interscholastic Athletic Association, stated that, "girls' sports" was virtually illegal and certainly heretical ten years ago, still bogged down in apprehensions and fears of school leaders five years ago, and with male rather than female guidance in our staff office even as recently as three years ago.<sup>26</sup> Boie emphasized that significant changes have occurred and all but ten percent of the 420 member schools in Wisconsin would be involved in girls state-wide teams and individual championships during the 1973-74 school year.<sup>27</sup>

In Virginia, girls' basketball was a state-sponsored event as early as 1920. However, little if any Association leadership was present from 1920 through 1946.<sup>28</sup> Even in 1946 the statement appearing in the Association handbook could not be considered very supportive. While the league did not actively sponsor a girls' athletic program leading

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<sup>26</sup>John Boie, "Financing Girls' Athletics at the State Level" (paper presented at the 54th annual meeting of the National Federation of State High School Associations, Bloomington, Minnesota, July 4, 1973).

<sup>27</sup>Ibid.

<sup>28</sup>W. Ralph Kier, "Organizing the Interscholastic Program for Girls" (paper presented at the 50th annual meeting of the National Federation of State High School Associations, Las Vegas, Nevada, July 10, 1969).



to any championship, it did authorize interschool athletic competition for those schools and districts in which such competition was desired.<sup>29</sup>

By 1969 the Virginia League Handbook statement reflected a more positive attitude:

Competitive sports are an important part of the total physical education program for high school girls. Every girl should have the benefit of the educational opportunities inherent in competitive sports programs appropriate to her ability and desire. The interscholastic program shall not be promoted at the expense of the instructional or intramural program. There should be equitable sharing of such facilities and equipment, as must be used jointly by both boys and girls. Principles and standards for a program of competitive sports for girls is recommended for those member school principals who desire to conduct such programs.<sup>30</sup>

In 1946 the National Federation presented several recommendations relative to girls' athletics. The Federation indicated that these recommendations reflected the thinking of numerous women physical educators.<sup>31</sup> Emphasis was placed on the development of a strong program of intramural athletics. Such programs were considered more suitable than interscholastic athletics, especially in the major

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<sup>29</sup>Ibid.      <sup>30</sup>Ibid.

<sup>31</sup>National Federation of State High School Associations Handbook, 1946, pp. 32-33.

sports. Along with intramurals, play days and sports days were recommended as substitutes for the more strenuous activities.

During the 1945-46 school year, the National Federation reported that twelve states prohibited interscholastic basketball for girls and twenty-five other states prohibited basketball tournaments. There were an additional fifteen states which did not have a rule to prohibit tournaments, but no tournaments were reported. In the states of South Carolina, Tennessee, Georgia, Maryland, Missouri and Iowa tournaments for girls were held and interscholastic contests were common.<sup>32</sup>

In an effort to provide some type of organized activities for girls, several states developed their own Girls' Athletic Associations (GAA). These Associations experienced their greatest growth between 1940 and 1970. They encouraged participation in a widely diversified program for which points were awarded. Honors and awards were granted for the winning of a specified number of points. A series of play days held in the fall and spring were considered highlights of the GAA program.

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<sup>32</sup>Ibid.

One of the first and most comprehensive girls' Athletic Associations was developed in the state of Illinois. In 1946, there were 355 Girls' Athletic Associations in the state. In 1944 these individual Associations became a division of the Illinois High School Athletic Association.<sup>33</sup> The Constitution of the Illinois League of High School Girls' Athletic Associations has been included in Appendix B, to illustrate the type of program that existed during this time.

Even as Girls' Athletic Associations were growing in popularity some states were taking strong measures to prohibit interscholastic athletics for girls. The 1946-47 handbook of the New York State Public High School Athletic Association included the following provision: "Interscholastic competitive athletic activities shall be limited to boys only enrolled in grades nine through twelve inclusive."<sup>34</sup>

Wisconsin in the same year provided the following statement relative to the duties of the Board of Control. "It shall prohibit girls from participating in athletic competition in the major sports."<sup>35</sup>

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<sup>33</sup>Forsythe, op. cit., p. 374.

<sup>34</sup>New York State High School Athletic Association Handbook, 1946-47, p. 32.

<sup>35</sup>Wisconsin Interscholastic Association Twenty-Third Yearbook, 1946, p. 11.

The limitations on girls' athletics in Ohio were directed at basketball:

Girls' interscholastic basketball was discontinued September 1, 1940. The penalty for violation is suspension.

A. This rule has been interpreted to apply to any interscholastic game in which the basketball is used.

B. Games between high school girls and the alumnae are considered violations of this rule.<sup>36</sup>

As indicated previously, a strong Girls' Athletic Association program was evident throughout the state of Illinois. However, they were much more conservative in providing for an interscholastic athletic program as is reflected in the following regulation:

Regulations Governing Girls' Interscholastic  
Competition in Athletics

1. Each participant shall be eligible in all respects under the rules of the Illinois High School Association and in addition shall be required:

(a) to file with the high school principal a statement from her parent or guardian approving her participation in interscholastic athletics.

(b) to have on file with the high school principal a certificate of physical fitness issued by a competent physician.

2. Only women officials shall be used in the contest and each school entering one or more competitors must send with the competitors a woman member of the faculty to serve as chaperone and coach.

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<sup>36</sup>Ohio High School Athletic Association Handbook, 1946-47, p. 22.

3. No admission may be charged spectators and no girls' matches may constitute a part of any program at which admission is charged.

4. Official Rules for Women except that in Tennis:

(a) No deuce sets or "games all" shall be played.

(b) A set shall be terminated by team first winning six games.

(c) Winners of 2 out of 3 sets shall win match.

(d) A rest period of five minutes shall be allowed after each set.<sup>37</sup>

The state of Iowa takes great pride in the fact that it not only offers the most complete interscholastic program for girls, but is also unique in that girls have their own separate association, The Iowa Girls' High School Athletic Union. Since its beginning in 1926, the Union has grown to the point that by 1976 it was conducting thirteen state championships and had enrolled more than 500 high schools in its membership.<sup>38</sup>

An example of just how complex and popular the Iowa girls' program has become is illustrated in what has become known as Iowa's Super Saturday. The program begins with the

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<sup>37</sup>Illinois High School Association Handbook, 1947, p. 64.

<sup>38</sup>Jim Enright, Only in Iowa (Des Moines, Iowa: Iowa Girls' High School Athletic Union, 1976), p. 2.

morning-afternoon Girls' High School Indoor Track Meet. It is followed by the Girls' State Gymnastic Meet, which leads into a four-hour doubleheader in basketball. The basketball final itself is something without equal. The championship game on Saturday night is viewed live by some 15,000 persons, besides being televised across the state. Gross box office deposits for the girls' state basketball tournament for 1970 approached \$270,000.00.<sup>39</sup>

The activities mentioned above do not represent the entire girls' program. The yearly schedule includes four sports in the fall: volleyball, softball, distance running, and swimming, which in turn leads to the winter activities of gymnastics, basketball and indoor track. Tennis, track, golf, and synchronized swimming complete the spring schedule and during the summer there is coed tennis, coed golf and summer softball.<sup>40</sup>

#### COLLECTION OF DATA

The regulation and control of girls' interscholastic athletics has produced a relatively unified and controlled pattern since its beginning. There has been no major

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<sup>39</sup>Ibid., p. 4.      <sup>40</sup>Ibid., p. 3.

controversy in determining who was to provide leadership. It has been the responsibility of the women physical educators, in their respective secondary schools, to assume this role. Perhaps a more complex task has been to identify the programs themselves. Until recently they have been few in number.

With the rapid growth that girls' athletics has experienced in the past several years, more attention has been directed toward the administration of the programs. By comparison, the boys' athletic programs have not been as concerned with their administrative structure, as these have been regulated by the State High School Athletic Association which exists in each of the fifty states.

In recent years there has been strong support to place the girls' program under the jurisdiction of the existing state associations. Bundy, Kuhn, Williams and Burke, all of whom are athletic administrators, have indicated that the only logical place for girls' athletics is within the State Associations.<sup>41</sup> The National Federation of High

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<sup>41</sup>Ola M. Bundy, "Implementing the Program of Girls' Athletics" (paper presented at the 52nd annual meeting of the National Federation of State High School Associations, Denver, Colorado, July 16, 1971); Karen Kuhn, "Girls Inter-scholastic Athletic Programs" (paper presented at the 53rd annual meeting of the National Federation of State High School Associations, Miami, Florida, June 27, 1972); Rhea

School Athletics, as early as 1964, recommended that the control and supervision of girls' interscholastic athletics should be administered through each State Association.<sup>42</sup>

Presently provisions are being made in the State High School Athletic Associations to accommodate the rapidly expanding programs. In several states women have been employed in administrative positions within the State Associations to assist in promoting and implementing the girls' phase of the program.

Since 1970 two doctoral dissertations have been written on the function, structure, and administration of the State High School Athletic Associations.<sup>43</sup> However,

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Williams, "Implementing the Program of Girls' Athletics" (paper presented at the 52nd annual meeting of the National Federation of State High School Associations, Denver, Colorado, July 16, 1971); S. F. Burke, "Incorporating Girls' Athletics in State Associations" (paper presented at the 51st annual meeting of the National Federation of State High School Associations, Seattle, Washington, July 10, 1970).

<sup>42</sup>Burke, op. cit.

<sup>43</sup>Eugene A. Albo, "Legal Status of State High School Activities Associations in the Fifty States" (Doctoral dissertation, University of Denver, 1970) and Jay M. Robinson, "The Development of a Model Constitution and Bylaws for a High School Activities Association for the State of North Carolina" (Doctoral dissertation, Duke University, 1976).



no attempt has been made to analyze court documents involving the regulation of interscholastic athletics.

A study was completed by Robinson in 1976 on the structure and function of the High School Athletic Associations. The purpose of the study was to develop a model constitution and bylaws for a state association. A section of Robinson's study identified the most critical issues facing the associations in the seventies. One of the issues mentioned was the future of girls' athletics.<sup>44</sup> Appenzeller's book, Athletics and the Law, devotes a chapter to the involvement of females in sports. Like Robinson, Appenzeller sees girls' athletics as a major issue in the future. He credits women with creating more change in sports than in any other area of athletics.<sup>45</sup> He further states:

A new day is dawning for girls' athletics, and the sooner this fact is recognized, the sooner lawsuits in this area will cease. For years, girls' athletics have received the leftovers of varsity sports for men with regard to finances, facilities, faculty salaries and other practical items. The venerated arguments that resemble "old wives tales" just aren't accepted today. Very few educators believe any more that girls are damaged psychologically, physically, morally or emotionally by participation in sports.

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<sup>44</sup>Robinson, op. cit.

<sup>45</sup>Herb Appenzeller, Athletics and the Law (Charlottesville, Virginia: The Michie Company, 1975), p. 85.

The court has asked why athletics are so valuable to males and are not to females?<sup>46</sup>

One of the few studies that was developed to gather information on girls' athletic programs was completed by Margaret Larson in 1931. The results of her questionnaire indicated that twenty-one of the forty-one states responding had some type of State Association for girls.<sup>47</sup>

A study of the constitutions and bylaws of State High School Athletic Associations was conducted in the same year by J. W. Hair. His study identified the rules and regulations used by the various associations. The most significant findings of the study were:

1. Over three-fourths of the states permitted high school athletes to participate until age twenty-one.
2. Several states permitted students to participate more than eight semesters.
3. Students found guilty of using tobacco, profanity and intoxicants were ruled ineligible by their state association in fifteen percent of the states.<sup>48</sup>

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<sup>46</sup>Ibid., p. 102.

<sup>47</sup>Margaret Larson, "State Organization of Athletic Associations for Girls in Secondary Schools," The Research Quarterly, 12 (October, 1931), 63.

<sup>48</sup>J. W. Hair, "A Comparison of the Rules and Regulations of State High School Athletic Associations in the United States," The Research Quarterly, 12 (October, 1931), 42.

Several books have been written on the topic of interscholastic athletics. Charles W. Whitten's book, Interscholastics, presented the historical background on both the State High School Athletic Associations and the National Federation of High School Associations.<sup>49</sup> Charles E. Forsythe's book, The Administration of High School Athletics, also presented the historical background of the State Associations, but additionally was one of the few resources that included adequate coverage of the girls' athletic program.<sup>50</sup> The book also provided a thorough analysis of the regulations of State Associations.<sup>51</sup>

The results of a study conducted by Shepherd and Jameson at the University of North Carolina at Chapel Hill were reported in Interscholastic Athletics in 1953. Their study involved a comprehensive analysis of each of the handbooks of the State Associations and comparisons of their current practices.<sup>52</sup>

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<sup>49</sup>Charles W. Whitten, Interscholastics (Chicago: The Illinois High School Association, 1950).

<sup>50</sup>Forsythe, op. cit., p. 362.      <sup>51</sup>Ibid., p. 91.

<sup>52</sup>George E. Shepard and Richard E. Jameson, Interscholastic Athletics (New York: McGraw-Hill Book Company, Inc., 1953).

George and Lehmann's book on School Athletic Administration offers a detailed approach to the techniques and responsibilities of school athletic administration. It has been widely used as a textbook for courses in administration of high school athletic programs. Although only one chapter is devoted to girls' sports, they do include a vivid description of the plight of the female in athletics.

Perhaps the greatest problem of the girls' athletic director, physical education teacher, or coach is acquiring a fair allocation of facilities and time. Somehow, the boys' interscholastic program seems to come first, and as a result the girls' activities are curtailed. Girls' facilities, equipment, and professional leadership usually will be lower in cost than the boys' program. If funds for just one of the boys' sports--football--could be duplicated for the entire girls' program, most women teachers would be very happy! The school administrator must initiate the philosophy of equal sharing by giving the girls' program a fair proportion of the schools' resources.<sup>53</sup>

Albo wrote an in-depth study on "The Legal Status of State High School Activities Associations" in 1971. A questionnaire was distributed to each of the fifty State Associations requesting information on their history, aims and objectives, organizational details, day-to-day operations

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<sup>53</sup>Jack F. George and Harry A. Lehmann, School Athletic Administration (New York: Harper and Row Publishers, 1966), p. 72.

and evaluative procedures. One of the major findings of the study was that the State Associations do exert a great deal of control over interscholastic athletics and this power has been delegated to them by their respective boards of education. The study concluded that this procedure had worked quite well. However, it was emphasized that school boards should meet their obligations by periodically reviewing the standards of the athletic associations. One particular question in Albo's study has special significance for this writer's study. The question dealt with the number of activities that were available for boys, girls and coed groups. As might be expected, more activities were provided for boys. The responses to this question concerning the athletic activities are noted in Table 1.

A study made of the fifty State Associations in 1969 dealt with the problems encountered by Associations in regard to their relationship to state legislatures and state Departments of Education. The study indicated a trend toward more control by state legislatures and state educational agencies. It was also reported that there was a wide range of differences

Table 1

Activities Sanctioned by State Associations, 1971<sup>54</sup>

Activity	Boys	Girls	Coed	Activity	Boys	Girls	Coed
Archery		6		Pentathlon	1		
Badminton		6		Riflery	5		
Baseball	46			Shuffleboard		1	
Basketball	50	32		Skating		1	
Bowling	2	4		Skiing	17	12	
Cross Country	47	1		Soccer	23	1	
Curling	2	2		Softball		24	
Decathlon	3			Speedball		3	
Fencing	2	1		Swimming	43	32	
Field Hockey		7		Table Tennis		1	
Football	50			Tennis	48	40	
Golf	48	9		Track	50	35	
Gymnastics	34	29		Volleyball	2	27	
Ice Hockey	14			Water Polo	3		
Lacrosse	5			Wrestling	43		

<sup>54</sup>Albo, op. cit., p. 6.

concerning governmental control over the State Associations.<sup>55</sup>

A follow-up survey to the study described in the preceding paragraph was conducted by the National Federation of State High School Associations in 1975. Each State Association was asked to identify changes that had occurred in their relationship with the state Department of Education since 1969. The findings concluded that state educational agencies were making an effort to extend their control over State Associations. Two questions in the survey requested information concerning coed teams: (1) Does your Association permit boys to play on girls' teams? (2) Does your Association permit girls to play on boys' teams? There were twenty-two respondents that answered yes and twenty-three that responded negatively to the first question. To the second question, thirty-five states indicated that girls were permitted to play on boys' teams and ten answered no.<sup>56</sup>

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<sup>55</sup>R. Rex Dalley, "The Relationship of State Associations in the Fifty States" (paper presented at the 50th annual meeting of the National Federation of State High School Associations, Las Vegas, Nevada, July 11, 1969).

<sup>56</sup>"Summary of Policy Questionnaires" (Chicago: National Federation of State High School Associations, 1975) (Mimeographed).

One of the most revealing studies involving girls' participation in athletics was instituted by the New York State Education Department. This was an experiment conducted from March 1969 to June 1970 in which girls were permitted to compete as members of boys' teams in noncontact sports in which no comparable activity existed for girls. The results were favorable as shown in Appendix C. On March 16, 1971, the Board of Regents approved an amendment to permit girls to continue limited participation with boys. The amendment reads as follows:

Girls may participate on the same team with boys in interscholastic athletic competition in the sports of archery, badminton, bowling, cross country, fencing, golf, gymnastics, riflery, rowing (but only as coxswain), shuffleboard, skiing, swimming and diving, table tennis, tennis, and track and field, provided the school attended by a girl wishing to participate in any such sport does not maintain a girls' team in that sport. In exceptional cases, the principal or the chief executive officer of a school may permit a girl or girls to participate on a boys' team in a designated sport or sports, notwithstanding the fact that the school maintains a girls' team in that sport or sports.<sup>57</sup>

Felshin, writing on "The Status of Women in Sport," identified two instances in which girls were permitted boys'

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<sup>57</sup>"Report on Experiment: Girls on Boys' Interschool Athletic Teams, March, 1969-June, 1970" (The University of the State of New York, The State Education Department, 1972), p. 59.



teams. The California Interscholastic Federation passed a ruling in 1973 that allowed all high school athletic teams to be coeducational and during the same year at least two girls played on a football team in California.<sup>58</sup>

Some of the most pertinent data for this study was obtained from law libraries and court briefs, which were furnished by the North Carolina High School Athletic Association. Recent decisions are on file in the district, state, and appellate courts, and litigation two years or older is generally available in case books. Those decisions not yet reported in the case books were secured through the assistance of the National Federation of High School Associations and the various State Associations.

The National Federation of State High School Associations reported that the first litigation involving sex discrimination in the interscholastic Athletics Associations appeared in 1971. There were three confrontations reported during that year.<sup>59</sup> In two cases, girls were seeking the

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<sup>58</sup>Gerber, op. cit., p. 227.

<sup>59</sup>Gregorio v. Board of Education of Asbury Park, Civil Action No. A-1227-70 (Super. Ct. N. J., 1971); Hollander v. Connecticut Interscholastic Athletic Conference, Inc., Civil Action No. 12-49-27 (Super. Ct. New Haven County, Conn., 1971); and Rubel v. Iowa Girls' High School Athletic Union, Civil Action No. 11-412-C-2 (C. D., S. Dist. of Iowa, Dec. 28, 1971).

opportunity to become a member of a boys' team, and in both instances their request was denied. The third case involved a girl being ruled ineligible to participate since she was married and a mother. The court ruled in favor of the plaintiff.

Since 1972, there have been twenty-three additional suits reported. In the majority of these cases girls were requesting the right to participate on the boys' athletic team when no girls' team existed, or the right to participate on the boys' team even if there were a girls' team.

Appenzeller, Johnson, Martin, and Knowles have expressed opinions concerning the future role of interscholastic athletics and State Athletic Associations. Appenzeller, Johnson and Knowles cited possible trends that could involve litigation against the Associations.<sup>60</sup> Martin strongly recommends that State Associations re-evaluate their existing programs.<sup>61</sup>

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<sup>60</sup>Herb Appenzeller, op. cit., p. 103; Honorable Howard Johnson, "Legal Standing of State High School Athletic Associations" (paper presented at the 23rd annual meeting of the National Federation of State High School Associations, San Francisco, February 23, 1942); Lawrence W. Knowles, "Courts Debunk Common School Sports Myths," Nation's Schools, 92 (September, 1973), p. 60.

<sup>61</sup>David L. Martin, "Competitive Sports: Are They Wasting Dollars and Ruining Your Youngsters Too?" The American School Board Journal, 160 (August, 1972), p. 18.

Knowles stated:

It's not difficult to visualize far-reaching judicial inquiries in the next few years into comparative expenditures for female and male sports programs. Girl athletes can argue that they should have as many coaches who are well paid and who possess the same degree of expertise as coaches of boys' teams.<sup>62</sup>

Martin, writing in the American School Board Journal, stated:

No responsible education leader argues for complete elimination of interscholastic athletics. But a demand is swelling for a re-evaluation of such programs in light of the dollar squeeze on school boards.<sup>63</sup>

In the same article Martin further states:

Surely one of the saddest of all failures of the schools' sports programs must be the denial of equable athletic opportunities for girls. Patently, there is little excuse for denying participation to females in either separate programs or in the same programs that are open to boys.<sup>64</sup>

Commenting on the unequal opportunities provided for girls by State Associations, Gilbert and Williamson stated:

There may be worse forms of prejudice in the United States, but there is no sharper example of discrimination today than that which operates against girls and women who take part in competitive sports.<sup>65</sup>

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<sup>62</sup>Knowles, op. cit., p. 60.

<sup>63</sup>Martin, op. cit., p. 18. <sup>64</sup>Ibid., pp. 19-20.

<sup>65</sup>Bill Gilbert and Nancy Williamson, "Sport is Unfair to Women," Sports Illustrated (May 28, 1973), p. 88.

Celeste Ulrich, former president of the American Alliance for Health, Physical Education and Recreation, commenting on the future of girls' athletics, insisted that:

The day is past when girls will have only the rationale of fairness as they require equal treatment. The law can now be invoked and in every case where the question of equality had been litigated, the women have won their case with ease.<sup>66</sup>

Recent articles, reports, law reviews and law notations support Appenzeller and Johnson's prediction that there will be an increase in court cases. With the passage of Title IX of the Education Amendments Act of 1972 and the support of the Fourteenth Amendment, girls are demanding opportunities to participate. The State Athletic Associations are on the receiving end of these demands and the potential litigation which is developing. A summary of those sports in which the plaintiff desired to be a participant are illustrated in Table 2.

The litigation reported in this study was directed toward the local school which the plaintiff attended and its administration, as well as the State Athletic Association of which the school was a member. In order to determine necessary

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<sup>66</sup>Celeste Ulrich, "It's a Whole New Ballgame" (paper presented at the First National Conference for Secondary Physical Education, Washington, D. C., 1972).

Table 2

## Sports in Which the Plaintiff was Seeking Participation

Case	Basketball	Cross Country	Soccer	Swimming	Golf
Allen v. Calif.		X			
Bell v. Ill.		X			
Brenden v. Minn.		X			
*Brandstetter v. Ind.		(female requested injunction to prevent boys on volleyball team)			
Bucha v. Ill.				X	
Cape v. Tenn.	X				
Carnes v. Tenn.					
Commonwealth v. Pa.		(challenged separate team concepts)			
Darrin v. Wash.					
Gilpin v. Kansas		X			
Gregorio v. N. J.					
Haas v. Ind.					X
Harris v. Ill.					
Hollander v. Conn.		X			
Hoover v. Ill.			X		
Knox v. Colo.					X
Kuehl v. Iowa		(equal funds for girls' program)			
Lavin v. Ill.		(challenged separate team concept)			
Mora v. Colo.		X			
Morris v. Mich.					
Jones v. Okla.	X				
Purnell v. Pa.					X
Reed v. Neb.					X
Ritacco v. Pa.		(challenged separate team concept)			
Rubel v. Iowa		X (denied the right to participate--married and a mother)			
Zald v. Mich.		(denied right on scheduling committee)			

Table 2 (continued)

Case	Tennis	Baseball	Volleyball	Football	Skiing
Allen v. Calif.					
Bell v. Ill.					
Brenden v. Minn.	X				
Brandstetter v. Ind.			X		
Bucha v. Ill.					
Cape v. Tenn.					
Carnes v. Tenn.		X			
Commonwealth v. Pa.					
Darrin v. Wash.				X	
Gilpin v. Kansas					
Gregorio v. N. J.	X				
Haas v. Ind.					
Harris v. Ill.	X				
Hollander v. Conn.					
Hoover v. Ill.					
Knox v. Colo.					
Kuehl v. Iowa					
Lavin v. Ill.					
Mora v. Colo.					
Morris v. Mich.	X				
Jones v. Okla.					
Purnell v. Pa.					
Reed v. Neb.					
Ritacco v. Pa.					
Rubel v. Iowa					
Zald v. Mich.					

changes in the Associations each of the cases was examined for constitutional interpretations. The only areas of reference in the litigation were Title IX of the Education Amendments Act of 1972 and the Fourteenth Amendment. There were three sections of the Fourteenth Amendment to be considered: Equal Protection, Due Process, and State Action. The decisions rendered in the reported cases were used to determine the legality of the Association in question. All decisions revolved around the rulings of the court.

#### ORGANIZATION OF DATA

The organization of the study is developed in four parts. The initial step was to identify and collect information pertaining to litigation in girls' interscholastic athletics. This included gathering data from periodicals, law reviews, state and district courts and the various Associations. The primary source was the National Federation Mutual Legal Aid Pact. This consisted of legal briefs made available to all State Associations.<sup>67</sup>

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<sup>67</sup>National Federation Handbook, op. cit., p. 67.

The second step presented the constitutional laws that were pertinent to the court cases. With two exceptions, all cases in this study were discussed and decided by the courts within the context of the essential elements of the equal protection clause of the Fourteenth Amendment. The two most recent cases were litigated as a result of Title IX of the Education Amendments Act of 1972. For these cases to reach federal courts there had to be a conflict with the constitution; otherwise the court would have no jurisdiction in the case.

The third step identified the key elements of each court decision, then categorized those that related to a specific rule or regulation that had been challenged.

The final step was to examine and analyze the actions of the courts to determine how these decisions may influence the future of girls' interscholastic athletics. The judicial decisions of the litigation are noted in Table 3.

#### ANALYSIS OF DATA

The decisions rendered by the courts have determined the validity of the rules and regulations of the State High School Athletic Associations. The examination of each case supported or defined the legal framework of the Associations.



Table 3

## Judicial Decisions of the Litigation

Case	Injunction	Injunction Denied	Moot	Dismissed	Pending
Allen v. Calif.		X			
Bell v. Ill.	X				
Brenden v. Minn.	X				
Brandstetter v. Ind.		X			
Bucha v. Ill.		X		X	
Cape v. Tenn.		X			
Carnes v. Tenn.	X				
Commonwealth v. Pa.	X				
Darrin v. Wash.	X				
Gilpin v. Kansas	X	X			
Haas v. Ind.	X				
Harris v. Ill.				X	
Hollander v. Conn.		X			
Hoover v. Ill.	X				
Knox v. Colo.				X	
Kuehl v. Iowa				X	
Lavin v. Ill.	X				
Mora v. Colo.	X				
Morris v. Mich.	X				
Jones v. Okla.		X			
Purnell v. Pa.		X			
Reed v. Neb.	X				
Ritacco v. Pa.			X		
Rubel v. Iowa	X				
Zald v. Mich.				X	
Gregorio v. N. J.		X			

The final analysis determined to what extent discriminatory practices existed within each organization. Further, it established what legal recourse was available, if, in fact, discrimination existed. The courts are the final authority.

## Chapter 2

### CONTROL OF HIGH SCHOOL INTERSCHOLASTIC ATHLETICS

A review of the fifty State High School Athletic Associations' constitutions and bylaws indicates numerous differences in the mode of operation as well as the scope of activities offered the male and female participants. Many of the rules and regulations reflect the guidelines and recommendations of the National Federation of State High School Associations. This chapter presents an overview and comparison of the operational practices that exist in the various Associations with particular emphasis on the role of the female athlete.

The National Federation, which includes members from each of the fifty states, is governed by an executive committee composed of eight members elected from the National Council. The National Council has one representative from each of the State Associations. The offices of the Federation include a president, a vice-president and a secretary-treasurer. Each of these individuals is elected by the executive committee. It was interesting to note that the

make-up of the executive committee for the 1975-76 school year was all male.

Each of the fifty State Associations has either a Board of Control or Executive Committee. There are numerous differences in the amount of authority, procedure for selection, and the size of the Boards of Control or the Executive Committees. The average size on the Board of Control of the State Association is fourteen members (Table 4). Thirty-four State Associations select board members from districts within the State Association. Eligibility for membership on the Board of Control also varies from state to state. A total of twenty-seven states limits membership to superintendents, principals or school board members. In nineteen states school boards are represented on the Board of Control.<sup>2</sup>

In the majority of states the Board of Control selects the executive secretary, who functions as the chief executive officer. In the states of Texas and Virginia, the extension division of the state university is responsible for administering the State Associations. The executive secretary in Virginia is appointed by the president of the University of Virginia while the secretary in Texas is an

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<sup>2</sup>Ibid., p. 83.

Table 4

Governing Boards of State Associations by Number  
of Members, Length of Term, Representation,  
and Membership Eligibility, 1974-75<sup>1</sup>

	Number of Members on Board	Length of Term of Board Members (Years)	Statewide Representation	District Representation	Board Membership Limited to Superintendents, Principals, and Board of Educa- tion Members	Board Membership Open to Any Faculty Member	School Boards Represented on Board of Control	
Alabama	13	4		X		X		
Alaska	10	3		X				
Arizona	8	3		X	X		X	
Arkansas	16	3		X	X			
California	21	2		X	X			
Colorado	11	3				X	X	
Connecticut	13	2	X		X			
Delaware	30	3		X			X	
Florida	23	3		X	X		X	
Georgia	33	3		X		X		
Hawaii	6	3		X	X			
Idaho	11	3		X	X		X	
Illinois	6	3		X	X			
Indiana	5	3		X		X		
Iowa	7	5					X	
Kansas	8	3		X	X		X	

Table 4 (continued)

	Number of Members on Board	Length of Term of Board Members (Years)	Statewide Representation	District Representation	Board Membership Limited to Superintendents, Principals, and Board of Educa- tion Members	Board Membership Open to Any Faculty Member	School Boards Represented on Board of Control	
Kentucky	10	4		X		X		
Louisiana	17	2				X	X	
Maine	11	3		X	X			
Maryland	33	1		X				
Massachusetts	18	1	X		X			
Michigan	16	2				X		
Minnesota	14	4		X	X		X	
Mississippi	9	4		X		X		
Missouri	8	4		X	X			
Montana	5	4	X		X		X	
Nebraska	6	3		X		X		
Nevada	17	2		X	X		X	
New Hampshire	15	3					X	
New Jersey	41	3		X			X	
New Mexico	13	4		X	X			
New York	21	4		X		X		
North Carolina	13	4	X		X			
North Dakota	10	3	X				X	
Ohio	6	2		X		X		
Oklahoma	9	3		X		X		
Oregon	7	5		X	X		X	

Table 4 (continued)

	Number of Members on Board	Length of Term of Board Members (Years)	Statwide Representation	District Representation	Board Membership Limited to Superintendents, Principals, and Board of Education Members	Board Membership Open to Any Faculty Member	School Boards Represented on Board of Control	
Pennsylvania	21	1		X			X	
Rhode Island	13	3	X		X			
South Carolina	11	1	X					
South Dakota	7	6	X		X		X	
Tennessee	13	3		X	X			
Texas	9	-			X			
Utah	15	3		X	X		X	
Vermont	12	3	X		X			
Virginia	12	2		X	X			
Washington	10	3		X	X			
West Virginia	8	1	X				X	
Wisconsin	7	3		X	X			
Wyoming	8	3		X		X		

Source: State Association Handbooks.

<sup>1</sup>Jay M. Robinson, "The Development of a Model Constitution and Bylaws for a High School Activities Association for the State of North Carolina" (unpublished Doctoral dissertation, Duke University, 1976), p. 82.

employee of the University of Texas. At the present time no women hold the position of executive secretary in any State Association.

There is a wide range in the number of employees in the various State Associations. According to data provided in 1974-75, the state of California had a staff of thirty-eight. Seventeen State Associations had less than five full-time persons and seven states had between ten and twenty.<sup>3</sup> An interesting statistic was the small number of women employed by State Associations. Perhaps this will increase as girls' athletic programs continue to grow. However, according to the 1974-75 National Federation handbook, there were thirty-two states that had no women in administrative positions. The State Association of New Jersey had the greatest percentage with three of their eight positions being held by women. The results of combining the administrative staff of the fifty State Associations show there were one hundred and sixty men and twenty-one women employees.<sup>4</sup> These data were extrapolated from data presented in Table 5.

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<sup>3</sup>Ibid., p. 84.

<sup>4</sup>National Federation of State High School Associations Handbook, 1975, pp. 92-103.



Table 5

Number of Administrative Staff, Support Staff,  
Associations Incorporated, Statutory Status,  
and Agency Control of State High School  
Associations, 1974-75

States	Administrative Staff		Full-time Support Staff	Associations Incorporated	Associations Having Official Status by State Statute	Association Controlled by State Board or State Department of Instruction
	Men	Women				
Alabama	3	0	3			
Alaska	1	0	3			
Arizona	2	0	4	x		
Arkansas	3	0	3			
California	12	0	26			
Colorado	1	0	4			
Connecticut	2	0	0	x		
Delaware	1	0	0			x
Florida	3	0	5	x		
Georgia	2	0	4			
Hawaii	1	0	0			
Idaho	2	0	1			
Illinois	5	1	13			
Indiana	3	2	7			
*Iowa	2	0	15			x
Kansas	5	1	8	x	x	
Kentucky	4	0	3			
Louisiana	2	0	3			
Maine	1	0	0			

Table 5 (continued)

States	Administrative Staff		Full-time Support Staff	Associations Incorporated	Associations Having Official Status by State Statute	Association Controlled by State Board or State Department of Instruction
	Men	Women				
Maryland	1	0	0		x	
Massachusetts	2	0	0			
Michigan	5	1	6	x	x	x
Minnesota	5	1	7	x	x	
Mississippi	2	0	2	x		
Missouri	3	0	6			
Montana	2	0	2	x		
Nebraska	3	1	1			
Nevada	1	0	0	x		
New Hampshire	1	0	0	x		
New Jersey	5	3	1			
New Mexico	3	1	0		x	x
New York	3	0	2	x	x	x
North Carolina	2	0	3			
North Dakota	4	1	2			
Ohio	5	1	7			
Oklahoma	4	0	4			
Oregon	3	0	6			
Pennsylvania	2	0	5			
Rhode Island	1	1	0			
South Carolina	3	1	4			
South Dakota	4	1	1			
Tennessee	3	0	4			
Texas	5	1	14		x	

Table 5 (continued)

States	Administrative Staff		Full-time Support Staff	Associations Incorporated	Associations Having Official Status by State Statute	Association Controlled by State Board or State Department of Instruction
	Men	Women				
Utah	1	0	1			
Vermont	1	0	1			
Virginia	6	1	4			
Washington	3	1	3			
West Virginia	2	0	2		x	
Wisconsin	5	1	19			
Wyoming	2	1	0			

According to the results of a 1970 survey of the State Associations Albo found that nineteen Associations indicated they were incorporated.<sup>5</sup> However, in 1975 only eleven were incorporated (Table 5). This decrease in numbers may be the result of legal authorities advising State Associations against incorporation.<sup>6</sup> A total of eight states reported in 1975 that they had official status by state statute. Only five states indicated they were controlled by the state Board of Education or Department of Public Instruction (Table 5).

#### SCOPE OF ACTIVITIES

There is considerable difference in the number of activities sponsored by Associations in the various states. This is most obvious when comparing the number of activities for girls and boys. The national average of athletic events provided for boys by State Associations is fourteen with

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<sup>5</sup>Eugene A. Albo, "Legal Status of State High School Activities Associations in the Fifty States," (unpublished Doctoral dissertation, University of Denver, 1970), p. 36.

<sup>6</sup>Jack L. Miller, "Governmental Agencies and State Associations" (paper presented at the 53rd annual meeting of the National Federation of State High School Associations, Miami, Florida, June 29, 1972).

New York conducting the largest number of twenty-four.<sup>7</sup> In twenty-one states, the number of activities provided for boys exceeds offerings for girls by three or less.

The national average for the number of activities offered for girls by the fifty State Associations is only nine, with New York offering the greatest number which is twenty (Table 6). The states of West Virginia and Nevada sponsor only three athletic activities for girls.<sup>8</sup> Only in Arkansas is the same number of activities offered for girls and boys, each program including seven sports. The states of Massachusetts, Illinois, and Washington have the unique distinction of providing more activities for girls than boys. In comparing the number of state championships provided for boys and for girls the pattern remains the same. Table 7 indicates that there were five hundred and five championships conducted for boys and only two hundred and fifty-nine for girls. The 1976 Sports Participation Survey, compiled by the National Federation of State High School Association, can be found in Appendix D. This provides a comprehensive

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<sup>7</sup>Robinson, op. cit., p. 87.

<sup>8</sup>Ibid., p. 88.

Table 6

Girls Participating on Boys' Teams, Number of  
Sports Offered Both Boys and Girls by State  
High School Associations, and  
Grade Levels Included

State	Rules State Girls May Participate on Boys' Teams in Noncontact Sports	Different Sports Provided for Girls	Different Sports Provided for Boys	Program Includes Grades 7-12
Alabama		9	11	x
Alaska		5	7	
Arizona		10	13	
Arkansas		7	7	x
California		17	19	x
Colorado		6	15	
Connecticut	x	10	13	x
Delaware	x	9	12	x
Florida		6	14	x
Georgia		7	15	x
Hawaii		9	13	
Idaho		6	9	
Illinois		15	11	
Indiana		9	10	x
* Iowa		0	11	x
Kansas		9	12	x
Kentucky		7	13	
Louisiana		9	12	
Maine		14	19	x
Maryland	x	7	12	
Massachusetts	x	17	13	x
Michigan		12	13	
Minnesota	x	7	13	x
Mississippi		5	7	x
Missouri		7	11	x
Montana		7	10	x
Nebraska		6	12	x
Nevada		3	9	x

Table 6 (continued)

State	Rules State Girls May Participate on Boys' Teams in Noncontact Sports	Different Sports Provided for Girls	Different Sports Provided for Boys	Program Includes Grades 7-12
New Hampshire		10	18	x
New Jersey	x	12	17	x
New Mexico		8	11	x
New York	x	20	24	x
North Carolina	x	7	10	
North Dakota		7	12	x
Ohio		13	15	x
Oklahoma		5	11	x
Oregon		7	11	x
Pennsylvania		10	13	x
Rhode Island		8	10	x
South Carolina		9	10	x
South Dakota		7	14	x
Tennessee		6	9	x
Texas		6	11	x
Utah		6	9	
Vermont	x	12	17	x
Virginia	x	8	13	x
Washington		15	11	x
West Virginia		3	9	x
Wisconsin		12	13	x
Wyoming	x	6	11	x

Source: State Associations and National Federation Handbooks.

\*Iowa has separate association for girls.

Table 7

High School State Championships 1974-75<sup>9</sup>

States Which Determine State Championships in Boys and Girls Sports	Archery	Badminton	Baseball	Basketball	Bowling	Cross Country	Curling	Decathlon	Field Hockey	Fencing	Football	Golf	Gymnastics	Hockey	Indoor Track	Skiing	Soccer	Softball	Swimming	Tennis	Track	Volleyball	Wrestling
Alabama			B	B		B		B			B	B			B				B	B	B		B
	G	G			G	G						G	G						G	G	G	G	
Alaska				B		B										B							B
Arizona			B	B		B					B	B	B						B	B	B		B
	G	G		G								G	G						G	G	G	G	
Arkansas			B	B		B		B			B	B							B	B	B		
				G								G	G						G	G	G		
California																					B		B
																					G		
Colorado			B	B		B					B	B	B	B		B			B	B	B		B
				G									G			G			G	G	G	G	
Connecticut			B	B		B		B				B	B	B	B		B		B	B	B		B
	G			G		G			G				G					G	G	G	G	G	
Delaware			B	B		B					B	B			B		B		B	B	B		B
				G					G											G			
District of Columbia			B	B		B					B	B			B		B		B	B	B		
				G		G						G			G			G	G	G	G	G	
Florida			B	B		B		B			B	B							B	B	B		B
												G							G	G	G		
Georgia			B	B		B					B	B	B				B		B	B	B		B
				G								G	G						G	G	G		



Table 7 (continued)

States Which Determine State Championships in Boys and Girls Sports	Archery	Badminton	Baseball	Basketball	Bowling	Cross Country	Curling	Decathlon	Field Hockey	Fencing	Football	Golf	Gymnastics	Hockey	Indoor Track	Skiing	Soccer	Softball	Swimming	Tennis	Track	Volleyball	Wrestling
Hawaii			B	B	B	B						B					B	B	B	B	B	B	B
					G	G													G	G		G	
Idaho				B		B						B								B	B		B
																				G			
Illinois			B	B		B					B	B	B				B		B	B	B		B
					G															G	G	G	
Indiana			B	B		B					B	B	B						B	B	B		B
												G	G						G	G	G	G	
Iowa			B	B		B					B	B	B						B	B	B		B
				G		G			G			G	G					G	G	G	G	G	
Kansas			B	B		B					B	B	B		B				B	B	B		B
				G								G	G		G				G	G	G	G	
Kentucky			B	B		B				B	B	B	B						B	B	B		B
				G						G		G	G						G	G	G		
Louisiana			B	B		B					B	B			B		B		B	B	B		B
				G								G						G	G	G	G	G	
Maine			B	B		B					B	B	B		B	B	B		B	B	B		B
													G			G			G	G	G		
Maryland				B		B					B	B			B		B				B		B
				G																	G		
Massachusetts			B	B		B						B	B		B		B		B	B	B		B
				G		G							G			G	G			G			
Michigan			B	B		B						B	B	B		B	B	B		B			B
				G								G	G			G		G	G	G	G		

Table 7 (continued)

States Which Determine State Championships in Boys and Girls Sports	Archery	Badminton	Baseball	Basketball	Bowling	Cross Country	Curling	Decathlon	Field Hockey	Fencing	Football	Golf	Gymnastics	Hockey	Indoor Track	Skiing	Soccer	Softball	Swimming	Tennis	Track	Volleyball	Wrestling
Minnesota			B	B		B	B				B	B	B	B		B			B	B	B		B
				G									G							G	G	G	
Mississippi			B	B																B	B		
				G																G	G		
Missouri			B	B		B					B	B					B		B	B	B		B
				G																	G		
Montana				B		B					B	B	B						B	B	B		B
				G		G						G	G						G	G	G		
Nebraska			B	B		B						B	B						B	B	B		B
												G	G						G	G	G	G	
Nevada			B	B							B	B								B	B		B
																						G	
New Hampshire			B	B		B					B	B		B	B	B	B		B	B	B	B	
				G												G				G			
New Jersey			B	B	B	B				B		B	B		B		B		B	B	B		B
				G	G	G			G				G					G	G	G	G		
New Mexico			B	B		B		B			B	B	B						B	B	B		B
				G								G	G						G	G	G	G	
New York						B													B		B		B
North Carolina			B	B		B					B	B					B		B	B	B		B
				G		G						G						G	G	G	G		
North Dakota			B	B		B					B	B			B	B			B	B	B		B
				G								G	G						G	G	G		

Table 7 (continued)

States Which Determine State Championships in Boys and Girls Sports	Archery	Badminton	Baseball	Basketball	Bowling	Cross Country	Curling	Decathlon	Field Hockey	Fencing	Football	Golf	Gymnastics	Hockey	Indoor Track	Skiing	Soccer	Softball	Swimming	Tennis	Track	Volleyball	Wrestling
Ohio			B	B	B						B	B	B						B	B	B	B	
													G								G		
Oklahoma			B	B	B						B	B							B	B	B	B	B
				G														G		G	G	G	
Oregon			B	B	B						B	B	B						B	B	B	B	B
					G							G	G						G	G	G	G	G
Pennsylvania				B	B							B	B				B	B	B	B	B	B	B
				G	G				G			G	G					G	G	G	G	G	
Rhode Island			B	B	B						B	B		B	B	B	B	B	B	B	B	B	B
				G	G				G			G	G				G	G			G		
South Carolina			B	B	B						B	B								B	B	B	B
				G					G			G								G	G	G	
South Dakota				B	B						B	B								B	B	B	B
												G	G							G	G		
Tennessee			B	B	B		B				B	B								B	B	B	B
				G																G	G		
Texas			B	B	B						B	B							B	B	B	B	
				G								G						G	G	G	G	G	
Utah			B	B	B						B	B							B	B	B	B	B
													G						G	G	G	G	
Vermont			B	B	B						B	B	B	B		B	B			B	B		B
				G	G				G			G	G			G		G		G	G		
Virginia			B	B	B						B	B	B		B					B	B	B	B
													G							G	G		

Table 7 (continued)

States Which Determine State Championships in Boys and Girls Sports	Archery	Badminton	Baseball	Basketball	Bowling	Cross Country	Curling	Decathlon	Field Hockey	Fencing	Football	Golf	Gymnastics	Hockey	Indoor Track	Skiing	Soccer	Softball	Swimming	Tennis	Track	Volleyball	Wrestling
Washington			B	B	B						B	B	B				B		B	B	B		B
				G									G						G	G	G	G	
West Virginia			B	B	B						B	B								B	B		B
																				G			
Wisconsin			B	B	B							B	B	B		B			B	B	B	B	B
												G	G						G	G	G	G	
Wyoming				B	B						B	B	B			B			B	B	B		B
													G			G			G	G	G	G	

Boys - 505

Girls- 259

<sup>9</sup>National Federation, op. cit., pp. 78-79.

list on all sports offered by each State Association for both boys and girls. It also includes the number of participants for each sport. As might be expected, the overwhelming majority of participants are boys. In addition, Appendix E provides comparable material for the Iowa Girls' High School Athletic Union. It should be noted that Iowa is the only state that has a separate girls' association.

A survey conducted in 1975 by the National Federation of High School Associations indicated that several states allowed mixed competition. Twenty-two states reported that boys were permitted on girls' teams and thirty states indicated that girls were permitted to try out for boys' teams.<sup>10</sup>

However, a review of the 1975 State Association handbooks indicates no rule existed in thirty-eight states regarding girls playing on boys' teams.<sup>11</sup> A rule that permits girls to participate on boys' teams in noncontact sports does exist in eleven states (Table 6). A special supplement to the 1976 New York State Athletic Association Handbook concerning mixed competition indicates a possible trend:

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<sup>10</sup>Results of a survey made by National Federation of State High School Associations, "Summary of Policy Questionnaires," (Chicago, April, 1975).

<sup>11</sup>Ibid.

Mixed Competition. Male and female pupils may participate on the same teams in interschool athletic competition under the following conditions:

- (i) There shall be no mixed competition in the following sports: baseball, basketball, field hockey, football, ice hockey, lacrosse, soccer, softball, speedball, team handball, and wrestling; and males may not compete on teams organized for female competition in the sport of power volleyball where the height of the net is set at less than eight feet.
- (ii) In schools that provide separate competition for male and female pupils in interschool athletic competition in a specific sport, the principal or the chief executive officer of the school may, in exceptional cases, permit a female or females to participate on a male team in sports other than those set forth in subparagraph (i) above.
- (iii) In schools that do not provide separate competition for male and female pupils in a specific sport, no pupil shall be excluded from such competition, except in the sports set forth in subparagraph (i) above, solely by reason of his or her sex.<sup>12</sup>

The only state that has a rule prohibiting girls from participating on boys' teams is South Dakota. The 1975 survey indicated that twenty-two states permit boys to play on girls' teams. However, New York State has the only State Association that includes a regulation that permits boys to participate on girls' teams.

The National Federation of State High School Associations has long opposed the participation of boys and girls on the same team. It encourages separate but equal programs:

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<sup>12</sup>New York State Athletic Association Handbook, 1976  
(Mimeographed).

Separate But Equal Programs of athletic competition for high school girls and boys are to the benefit of both sexes. Within the National Federation philosophy of school athletics is a commitment to the athlete. The National Federation believes interscholastic athletics are for those boys and girls who have the ability and who pay the price in terms of hours of practice and adherence to standards and, thereby, have earned the privilege to participate. Schools dodging the responsibility of serving the needs of girls by encouraging girls to participate on boys' teams do a disservice to the educational programs. This philosophy, expounded by certain court decisions and by some individuals who wish to make a spectacle of girls' athletics, eliminates meaningful girls' interscholastic programs. While it is true there may be an occasional outstanding girl athlete who can make a contribution to a boys' team, permitting joint participation continues to detract from the sound educational program of interscholastic athletics for girls. This is not to say a separate program for girls should be a second-class operation. Certainly not. The National Federation has pledged its cooperation and support to those programs which are separate but equal.<sup>13</sup>

#### GIRLS' ATHLETICS WITHIN THE STATE ASSOCIATIONS

From a review of the proceedings of the annual meetings of the National Federation of State High School Associations during the sixties and early seventies, it is apparent that girls' athletics was an extremely popular topic. Numerous speeches and reports were presented, both supporting girls' -

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<sup>13</sup>National Federation, op. cit., p. 38.

athletics and identifying problems and concerns related to the programs. A consistent pattern emerged when representatives from the various states reflected on their respective programs, many of which had their beginnings in the early 1900's. Almost without exception, those that had had interscholastic activities for girls saw their programs fade away. This development was reported in detail in Chapter 1.

In recent years the State Associations have spent considerable time attempting to determine their role in developing and promoting a program for girls. In emphasizing the responsibilities of the State Associations, Bundy, an official of the Illinois League of High School Girls' Athletic Associations, made the following comments:

There is not one person in this audience who does not know and understand the values to be derived from participation in an organized, controlled program of interscholastic athletics. State Associations have worked diligently for many years to ensure these values for boys. And yet, over half of the school's population is female. Which means that the values we are so diligently striving to ensure are serving only a minority of our high school population. Therefore, this same diligence, this same firmness of purpose, which State Associations have applied to boys' activities need now to be extended to ensure these same values for girls. In Illinois, the Illinois High School Association has for years extended its efforts to include the girls. We are grateful for this interest and support and we are proud of the program that is the result. For we know that without the support of our high school



principals the foundation of our present program would never have been built. And, without that firm foundation we would be greatly concerned about the future of the girls' program in Illinois.<sup>14</sup>

In the same speech Bundy indicated why the State Association is the organization that should be responsible for the girls' program.

(1) The State Association already has the support and involvement of its member schools.

(2) The responsibilities and authorities of the State Association already rest in the hands of educators.

(3) The State Association has the means available to perform the functions necessary for the effective control, regulation and administration of the girls' program.<sup>15</sup>

Bundy concluded her address with the following:

I submit that regardless of the character of girls' athletic programs and regardless of the extent of interscholastic athletic competition for girls, the State Association is, because of its very nature, the organization that must assume responsibility for all aspects of the girls' program.<sup>16</sup>

The following year, Rhea Williams of the Texas Athletic League said:

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<sup>14</sup>Ola M. Bundy, "State Association Programs for Girls" (paper presented at the 51st annual meeting of the National Federation of State High School Associations, Seattle, Washington, July 8, 1970).

<sup>15</sup>Ibid.    <sup>16</sup>Ibid.

There is no sound philosophic reason for not including girls' athletics in the interschool competitive athletic program in the high schools. From the viewpoint of equality, justice, and opportunity, girls are just as entitled to this experience in competitive sports as boys. It is interesting to note that recent years have seen a greater resurgence of interest in girls' athletics, primarily because of the realization that both sexes are equal and should be treated alike.<sup>17</sup>

Williams indicated that equal emphasis had not been given to girls' sports in State High School Associations for these reasons:

(1) Physical education leaders have thought it harmful, physically and psychologically, for girls to participate in interschool athletics.

(2) Many parents believed it was not "ladylike" to participate in athletics.

(3) Most athletic directors are men and prefer coaching boys and are not willing to give the time and money and facilities necessary for a girls' program.

(4) Many school administrators oppose girls' athletics because it requires additional financing, scheduling, and allocating use of equipment and facilities.<sup>18</sup>

At the same meeting, Dalley, Executive Secretary of the Montana State High School Association made the following remarks:

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<sup>17</sup>Rhea Williams, "Implementing the Program of Girls' Athletics" (paper presented at the 52nd annual meeting of the National Federation of State High School Associations, Denver, Colorado, July 16, 1971).

<sup>18</sup>Ibid.

I believe we must look to expanding our competitive sports programs for girls. Many of us have shied away from including any competitive sports program for girls as part of our State Association activities. Some of us are moving slowly in the direction of competitive sports for girls, sponsored and promoted by our Associations. Some states have had activity programs in girls' basketball and track as part of their State Association programs for a number of years. In other states, some outside organizations are sponsoring and conducting these programs for girls. Some of the girls' competitive programs have been sponsored by organizations completely divorced from schools or educational programs. This, I believe, is not in the best interest of our young ladies. If the interscholastic activity program for girls is a desirable part of the total educational program, then why shouldn't the girls' competitive program be sponsored and run by the schools? I believe this should be.<sup>19</sup>

In an effort to collect pertinent data concerning girls' involvement in athletics nationwide, the Wisconsin Interscholastic Athletic Association executive office developed a questionnaire in 1972 and circulated it to each state. Of the forty-six states responding, forty-five indicated that their program was handled by the State High School Athletic Association, thus in these states the same organization controlling boys' sports was also in charge of the girls' program.

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<sup>19</sup>R. Rex Dalley, "What is Ahead for State Associations?" (paper presented at the 52nd annual meeting of the National Federation of State High School Associations, Denver, Colorado, July 14, 1971).

Thirty-one states reported having a tournament program for girls; however, eleven of these failed to include a state championship. In responding to a question concerning game rules, only fifteen states reported that they used separate rules for girls.<sup>20</sup>

It can be concluded from the responses to the above questions that there was more female participation than expected. However, the findings can also be misleading. For example, the fact that forty-four states had an athletic program does not represent a composite picture of their existing program. It should be noted that some of the states had only a small degree of involvement. Also the fact that a very high percentage indicated that their program was handled by their State Association does not necessarily mean that this was positive. It is hoped that the men who provide the leadership for State Associations do promote girls' activities. Unfortunately, this has not always been the case.

Burke in an address on "Incorporating Girls' Athletics in State Associations" reminded his audience that as far back

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<sup>20</sup>Karen Kuhn, "Girls' Interscholastic Athletic Program" (paper presented at the 53rd annual meeting of the National Federation of State High School Associations, Bloomington, Minnesota, July 4, 1973).

as 1964, the National Federation had recommended that the control and supervision of interscholastic athletics for girls be administered through existing State Athletic Associations.<sup>21</sup>

In this same address Burke encouraged each state to develop the rules for girls' programs just as they have for boys. He pointed out that it is not possible to go along with the program of DGWS sports rules as an examination of their program shows that on their committee:

- (1) No school administrator is listed.
- (2) No state school executive is listed.
- (3) A small number of state high school level physical education teachers are listed without the recommendation of the states concerned.
- (4) There is a preponderance of college physical education people who are not familiar with the high school competitive program.<sup>22</sup>

In his continued criticism of DGWS, Burke pointed out that the Division fails to provide all the necessary services and does not train personnel to do coaching of competitive sports. Furthermore, no major effort is made to include

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<sup>21</sup>S. F. Burke, "Incorporating Girls' Athletics in State Associations" (paper presented at the 51st annual meeting of the National Federation of State High School Associations, Seattle, Washington, July 10, 1970).

<sup>22</sup>Ibid.

school personnel in its programs nor does the group provide competent officials.<sup>23</sup>

A more recent discussion involving the DGWS sports program took place at National Federation headquarters in 1973. Roy, Director of Girls' Athletics in Indiana, reported that State Association women from eight states met to discuss critical issues facing girls' athletics. One of the most pronounced concerns dealt with the conflict that states were experiencing in the use of game rules, either National Federation or DGWS.<sup>24</sup> The great emotional attachment to DGWS of women involved in programs on the local level had caused conflicts on the local level between two sets of rules and two organizations. To aid in coping with this conflict and establishing a cooperative relationship between the two groups, the women members of Association staffs indicated a firm belief that a liaison relationship should be established with DGWS and other outside organizations. It was strongly recommended that the National Federation establish a liaison relationship with DGWS and other professional

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<sup>23</sup>Ibid.

<sup>24</sup>Patricia Roy, "Report of Women Staff Members Meeting" (paper presented at the 54th annual meeting of the National Federation of State High School Associations, Bloomington, Minnesota, July 4, 1973).

organizations as it is deemed necessary and when there is evidence of mutual interests in programs.<sup>25</sup> It should be noted that the majority of women present accepted the concept that the National Federation should serve as the rules-writing body for girls' athletics at the secondary school level, and agreed to encourage the use of Federation rules within their own states as soon as possible.<sup>26</sup>

It became evident by 1973 that girls' athletics were going to be a major part of State Association activities in spite of the fact that the leadership positions of every Association were dominated by men. However, it should be emphasized that several men were supportive in promoting the girls' program as indicated in the preceding paragraphs.

The keynote address for the 1973 National Federation Convention was given by the Commissioner of Education of New York. In his address, Nyquist said, "No sports program today should be tolerated if it continues to shortchange girls."<sup>27</sup> He stated further that:

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<sup>25</sup>Ibid.      <sup>26</sup>Ibid.

<sup>27</sup>Ewald B. Nyquist, "Equality in Athletics" (paper presented at the 54th annual meeting of the National Federation of State High School Associations, Bloomington, Minnesota, July 3, 1973).

There is a challenge here to all of us to accept greater responsibility to make the difficult, but necessary, educational decisions to bring about educational justice, complete access to equal educational opportunities for all children, boys and girls alike, rather than to relinquish these responsibilities to the courts, which have been more innovative and progressive than we as educators have been. Is it not time that we who are concerned with educational policy take back the initiative from the courts and from the legislative authorities?<sup>28</sup>

The National Commission on the Reform of Secondary Education recommended that if State Athletic Associations were to continue to have jurisdiction over girls' activities, they should be required by statute to have equal sex representation on all boards supervising girls' and boys' athletics.<sup>29</sup>

This Commission also proposed a recommendation that could have strong implications regarding girls' participation in interscholastic athletics. Recommendation 32 of the Commission stated:

School boards and administrators at the local level must provide opportunities for female students to participate in programs of competitive team

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<sup>28</sup>Ibid.

<sup>29</sup>National Commission of Reform of Secondary Education, The Reform of Secondary Education (New York: McGraw-Hill Book Company, Inc., 1973), p. 147.



sports that are comparable to the opportunities for males. The program must be adequately funded through regular school budgets. Outstanding female athletes must not be excluded from competition as members of male teams in noncontact sports. The fact that a school offers the same sports for girls should not foreclose the option. State Activity Associations should be required by statute to eliminate from their constitutions and bylaws all constraints on full participation in competitive team sports by females.<sup>30</sup>

The impact of Recommendation 32 of the National Commission on Reform in Secondary Education has already been reflected in some state programs. In 1970 New York State adopted a policy that permitted the principal, in exceptional cases, to permit the female athlete to participate on a male team in sports other than those classified as contact sports. Additionally, schools that do not provide comparable competition for both male and female students in a particular sport may not exclude any student solely by reason of his or her sex except in contact sports.<sup>31</sup>

A second example of the implementation of Recommendation 32 was the passage of a regulation by the Pennsylvania State Board of Education in 1975. This states that girls cannot be prohibited from practicing with, trying out for,

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<sup>30</sup>Ibid.      <sup>31</sup>Nyquist, loc. cit.

or competing on any intramural or interscholastic team.<sup>32</sup>

The philosophy of the National Federation of High School Associations is in direct conflict with that of those who promote the coed team concept. As indicated earlier in this study, the Federation strongly supports separate but equal programs for girls and boys. The National Federation advocates interscholastic activities for girls participating on girls' teams against girls' teams. It believes girls' programs should be feminized in order to encourage young women to develop their leadership potential. These are the kinds of programs the Federation considers beneficial for high school girls.<sup>33</sup>

When the regulations of Title IX of the Education Amendments of 1972 were released the National Federation immediately voiced strong opposition. The National Federation took the position that some of the regulations, if made law in their present form, could mean an end to State Association and school board privileges of establishing separate or co-educational teams in a sport, or no teams at all. In addition they contended that the regulations treat the sexes

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<sup>32</sup>Robinson, op. cit., p. 28.

<sup>33</sup>National Federation, op. cit., p. 38.

as equal in athletic ability unless one is proven to be inferior, in which case that sex is given superior treatment. "We can't buy that," said Fagan.<sup>34</sup>

Fagan, Executive Secretary of the National Federation, considers Title IX to be both inconsistent and ill-conceived as it relates to school athletics. He states that its basic requirement is instant equality, which translates to equal funding of boys' and girls' athletic programs immediately. Fagan considers it unreasonable to expect the girls' program to grow in just a few years to the complexity the boys' program has achieved in more than a half century.<sup>35</sup>

Fagan further stated:

Faced with the directive to spend as much money on a girls' program in which student interest indicates a need for just five girls' sports as on a boys' program which has ten sports, will local school boards waste money on the former or drastically curtail the latter? Does it not seem more reasonable to apply a formula to the allocation of funds, than to have a blanket directive for equal expenditures? Should not the number of sports in which girls have interest, the number of teams they require and the actual number of participants have more bearing on funding of athletics than a national directive? We think so.<sup>36</sup>

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<sup>34</sup>Clifford B. Fagan, "The Inconsistencies of Title IX" (publication by the National Federation of State High School Associations, Chicago, Illinois, 1974). (Mimeographed.)

<sup>35</sup>Ibid.      <sup>36</sup>Ibid.

## PROBLEMS ASSOCIATED WITH THE GIRLS' PROGRAM

Numerous fears and concerns have been associated with the emerging girls' interscholastic athletic program. Those that have appeared most often in the literature are the lack of financing, limited facilities, difficulty with scheduling, and too few competent women coaches and officials.

In discussing the financing of girls' athletics, Eskew of the Indiana High School Athletic Association said that it was not wise to expect instant equality in programs. However, in time the girls' programs should be self-supporting. He presented the deficit spending in the girls' program in Indiana to substantiate his point. The girls' state volleyball tournament lost \$4300 the first year and the second year the loss was \$2600. By the third year the tournament had produced a profit of \$4500.<sup>37</sup>

Hartman of the Kansas High School Athletic Association indicated that his state was experiencing similar financial problems. Girls' athletics were not carrying their own weight financially. The loss of revenue to date had been

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<sup>37</sup>Phil N. Eskew, "Financing Girls' Programs" (paper presented at the 56th annual meeting of the National Federation of State High School Associations, San Diego, California, July 9, 1975).

underwritten by the boys' basketball and football programs. However, as the girls' programs mature, they should become self-sustaining on a statewide basis.<sup>38</sup>

In presenting an address on "Financing Girls' Athletics at the State Level," Boie, president of the Wisconsin Interscholastic Athletic Association, identified several areas of concern. He indicated that for the 1972-73 school year the Wisconsin girls' sports programs in the State Association would approach \$100,000 in cost. The largest expense would be \$33,000 for subsidization of five tournament sports. He emphasized the fact that in some instances it had been necessary to terminate a good subsidy program for the boys' division in order to meet the costs of the girls' program. The total expenditure for the boys' program was not included in Boie's remarks. He did concede that the Association felt certain that somehow it would find the means to support girls' programs because they should have been provided for in the past.<sup>39</sup>

When considering the means by which to provide financial support for girls' programs, it should be obvious

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<sup>38</sup>Ibid.

<sup>39</sup>John Boie, "Financing Girls' Athletics at the State Level" (paper presented at the 54th annual meeting of the National Federation of State High School Associations, Bloomington, Minnesota, July 4, 1973).

to the leadership of State Associations that there was a time during their infancy that the boys' programs had financial problems. Perhaps a closer look even now would indicate that the majority of the boys' activities are not financially independent.

A new approach that is gaining in popularity and has proven beneficial financially is the "joint" or "coed meet." The joint or coed meet is one in which a team of girls only or boys only competes against a team or teams of the same membership composition; the boys' team and the girls' team use the same facility concurrently or simultaneously. For example, the girls would take part in the hundred-yard dash and the boys would follow immediately with their hundred-yard dash. A definite savings would accrue to local schools and State Associations in that teams would travel together, thus saving on transportation costs. It would be necessary to subsidize just one school to host a meet and in most cases only one set of officials would be needed.

The problem of scheduling both boys' and girls' athletics in existing facilities is a very real concern for most schools. Boys' programs seem to increase each year with more participants and additional activities, and now the girls are seeking reasonable access to the gymnasiums

and other athletic facilities. Since the majority of the athletic facilities were built primarily for instructional purposes and for boys' sports the addition of girls' programs further complicates the already existing dilemma.

Roberts of the Wisconsin Interscholastic High School Athletic Association states that the demand for facilities will necessitate the establishment of new priorities. He does not believe the boys' programs will have to be cut; however, there will be some shifting of practice and competition opportunities. The end result will be that athletic facilities will be getting more use, and that should help prove to the public that they are needed.<sup>40</sup> Undoubtedly, there will be those who will question having to curtail the boys' programs, even while facility demands are being doubled.

Fortunately, some relief may come in the way of new scheduling procedures. As mentioned earlier, the joint or coed meets have possibilities. They can provide expediency in securing needed facilities, provide ease in scheduling meets, and cut the loss of school time considerably.

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<sup>40</sup>John E. Roberts, "Projecting Policies and Procedures for Girls' Athletics" (paper presented at the National Federation of State High School Associations Mid-winter Conference, New Orleans, Louisiana, January 5, 1972).

Furthermore, they can reduce the administrative requirements of local schools, conferences, and the State Associations, as fewer people are needed to administer the meets. Additionally, more qualified coaches and officials can be available to service one area.<sup>41</sup>

Anderson, an assistant in the North Dakota High School Activities Association, reported on what her state has done to alleviate scheduling conflicts. In order to make maximum use of facilities the girls have altered their activities and sports seasons. For example, basketball is a fall sport for girls. The gymnasium facilities are all theirs for this period of time. If staffing is a problem one coach may be hired to instruct girls in the fall and boys in the winter. Another advantage is the identification of competent officials.<sup>42</sup> The greatest drawback to this particular plan appears to be that the girls' program is making all the concessions.

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<sup>41</sup>Karen Kuhn, "Joint Meets and Tournaments" (paper presented at the 55th annual meeting of the National Federation of State High School Associations, Louisville, Kentucky, July 3, 1974).

<sup>42</sup>Mary K. Anderson, "Scheduling State Sponsored Meets" (paper presented at the 56th annual meeting of the National Federation of State High School Associations, San Diego, California, July 9, 1975).



As the girls' program has developed in Illinois, the process of alternating seasons has been used to some extent. However, it seems to be more equitable than that described in North Dakota. In order to make the best use of their facilities, tennis and golf seasons for boys and girls were reversed--girls' golf and boys' tennis in the fall, boys' golf and girls' tennis in the spring. It is reported that coed meets are also being considered there.<sup>43</sup>

Wilch, administrative assistant for the Colorado High School Athletic Association, stated that nationally, states sustaining girls' sports within their associations have one common problem--the unavailability of women coaches for girls' sports.<sup>44</sup> What is the reason for the shortage? Bundy from Illinois states:

Many women fear their inferiority in coaching and officiating. Women are reluctant to assume roles of coach and official because they fear the ridicule by their male counterpart. Women are also concerned about the rapid growth of the girls' program and that it might become dominated by the male before the women can gain any confidence or superiority in coaching skills.<sup>45</sup>

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<sup>43</sup>Ibid.

<sup>44</sup>Sharon Wilch, "Change: A Woman's Prerogative" (position paper presented at the Denver Public Schools' Coaches' Conference, Denver, Colorado, January 27, 1973).

<sup>45</sup>Ibid.

There is concern that women are not being prepared with specialized abilities in coaching. Roy, Director of Girls' Athletics in Indiana, offers two possibilities to overcome this deficiency: (1) qualified men coaches can be used while at the same time women maintain control of girls' programs, and (2) women coaches can be trained in classes set up for this purpose in colleges and universities.<sup>46</sup>

Roy further states:

Our sports program for girls must of course be geared to girls' abilities both as performers and coaches. Nevertheless, our member schools are utilizing men in some areas to coach and also assist with coaching. In some situations the man is coaching the girls' track team with the woman observing workouts and specific techniques. Eventually the woman may become proficient enough to assume full responsibility of coaching the team. In our efforts to open up the field of coaching for women, we must be careful not to pass over qualified men coaches in preference to less-well-qualified women coaches, just to obtain a woman coach. Our girls should have the best possible coaching, whether the coach is a man or a woman. Few women have had enough experience and training in competitive sports in the past few years to qualify them to do an outstanding job of coaching skilled girl athletes. The more knowledgeable coaches today, in most cases, are men, simply because men have grown up with competition and sports, and thus their background for coaching has been more extensive. So,

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<sup>46</sup>Patricia Roy, "Recruiting and Training Women Coaches" (paper presented at the 55th annual meeting of the National Federation of State High School Associations, Louisville, Kentucky, July 3, 1974).

although we need women to be in control of the girls' programs (especially with respect to administration and supervision), until women can be trained to do as good a coaching job as men, they should not replace them in coaching positions.<sup>47</sup>

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<sup>47</sup>Ibid.

## Chapter 3

### LEGAL STATUS AND SELECTED RULES OF THE STATE HIGH SCHOOL ATHLETIC ASSOCIATIONS

This chapter identifies and describes specific areas of the constitution and bylaws of the State Associations that are significant to this study. It should be noted that those areas are not limited to one sex, but apply equally to both boys and girls.

The first section deals with legal status, which, according to the literature, has never been clearly defined since the formation of State Associations. Certainly the organizational structure and its provisions for authority are unique when compared to other agencies that provide state-wide control. However, until recently there had been no major challenge to the existing procedures.

The rules concerning eligibility provide one of the greatest controversies for State Associations. The need for eligibility standards was the primary reason for the beginning of State Associations. As programs have expanded for both boys and girls, the problems have become more frequent and complex. The major portion of this chapter involves the

interpretation of the eligibility practices as it applies to the female athlete.

The final two sections of this chapter, due process and appeal procedures, provide a vehicle by which the student may challenge the rules and regulations that restrict his or her participation.

#### LEGAL STATUS OF STATE ASSOCIATIONS

The majority of State High School Associations are voluntary organizations composed of member schools. Even with voluntary status they are unique in their operations in that they assume a responsibility that legally belongs to boards of education. There is some debate as to whether these local boards have the right to delegate this power to associations. The legal counsel for the West Virginia Secondary School Activities Commission stated that in his opinion a local school board could not delegate to another agency authority that had been delegated to the local board.<sup>1</sup>

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<sup>1</sup>Jack L. Miller, "Governmental Agencies and State Associations" (paper presented at the 53rd annual meeting of the National Federation of State High School Associations, Miami, Florida, June 29, 1972).

Williams and Brownell made the following observations in regard to the legal aspects of interscholastic athletic competition:

It must be remembered that all powers of state education departments and local boards are obtained from the statutes. Authority is sometimes assumed, but such power, if not enumerated in the law, is likely to be held by the courts as nonexistent. For example, it is frequently assumed that state and local boards of education may exercise jurisdiction over interscholastic athletics on the basis of power delegated to these bodies by general education law. In many states the law fails to delegate the responsibility clearly to any official organization.<sup>2</sup>

Chief Justice Howard Johnson of the Montana Supreme Court pointed out that it is erroneous to imply that State Associations have no legal standing. He stressed that there is a great deal of confusion between the terms "legal" and "official." Justice Johnson emphasized that all voluntary associations have full legal standings and are recognized by every state in the union. He indicated that while numerous differences in statutes and regulations exist among the

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<sup>2</sup>Jesse F. Williams and Clifford L. Brownell, The Administration of Health and Physical Education (Philadelphia: W. B. Saunders Company, 1952), p. 345.

various State Associations, this does not alter the voluntary associations' legal standing.<sup>3</sup>

Mohler and Bolmeier appear to be in agreement with Justice Johnson as they provided the following explanation relative to legal standing.

Officials of high school organizations are also aware of the restrictive controls their organizations exert over the public school activities programs. The Athletic Conference is a liability to the same degree that any cooperative enterprise imposes responsibilities on its members, and limits their freedom of action. No high school is obligated to belong but once having joined, it is subject to the rules and regulations of the organization.

It is an established legal principle that the board of education has the authority to control the entire school program, curricular and extracurricular. But school boards also have the authority to permit their schools to join high school associations, thereby relinquishing a portion of their control over the extracurricular program by agreeing to abide by the constitution and bylaws of the association.<sup>4</sup>

Mohler and Bolmeier emphasized the need to understand the definition of an Association in order to determine its

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<sup>3</sup>Howard Johnson, "Legal Standing of State High School Athletic Associations" (paper presented at the 23rd annual meeting of the National Federation of State High School Associations, San Francisco, California, February 23, 1942).

<sup>4</sup>J. David Mohler and Edward C. Bolmeier, Law of Extracurricular Activities in Secondary Schools (Cincinnati: The W. H. Anderson Company, 1968), p. 72.

function as it pertains to High School Associations. They offer the following definition:

"An 'association' is a body of persons acting together . . . for the protection of some common enterprise." Unlike a corporation which is a legal entity through franchise, an association is a creature of contract and has no legal entity apart from the individuals comprising it. Although the terms "association" and "corporation" are sometimes used synonymously, " . . . particularly for corporations not formed for profit," the meaning of the word "association" is usually restricted to unincorporated societies.

Unless specific statutory provisions exist, the organization of an association is the result of a contract of the associates and is expressed in a written document, the constitution. The constitution of an association defines the rights and duties of the members and can be of whatever character the members desire so long as it does not conflict with public policy, the general welfare, and the constitutions of the state and federal governments.

Generally, a member of an association may be suspended or expelled for a constitutional violation or for failure to comply with rules and regulations. The courts will uphold an association in its right to suspend or expel a member, even if the regulation providing for such action is unreasonable. Any member, upon joining a voluntary association, assents to its rules and regulations and is bound by the agreement.

When an issue does arise, a member should exhaust all remedies within the association before suing in court, for the courts will interfere in internal association affairs only if "law and justice so require," as in the case of a violation of property rights.

An association, in order to sue, must bring action in the names of the members, unless statutes permit designated officers to sue in the association's behalf. The same procedure must be followed when an association is sued. "An unincorporated association cannot, in the absence of statutes, be sued."



Although there are few cases dealing with the legal status of high school associations, those which do exist involve the authority of these associations to prohibit athletes from participating in interscholastic athletics, the authority to suspend member schools from the association, thus preventing them from participating in the interscholastic athletic program, and the regulation of contracts dealing with the school activities program. Litigation usually results from an athlete being declared ineligible for interscholastic participation, or from an alleged violation by a school of a rule or regulation of the association for which the penalty is suspension.<sup>5</sup>

In reviewing the procedures of the National Federation Annual Meetings for the past several years it becomes obvious that the legal status of Associations has been a popular topic and one of major concern.

Harriet Miller, the Montana State Superintendent of Public Instruction, expressed strong support for independent Associations when she stated:

As Superintendent of Public Instruction of the state which has a competent High School Association, I have been surprised, from time to time to observe some agitation for placing the Association's functions with the office of State Superintendent . . . . Perhaps it is an oversimplification, but I have no reason to doubt that most of the agitation to do away with the Montana High School Association stems not from the feeling that the Association was not doing its job, but that it was doing it too well.

As I am sure you have gathered, I am opposed to the state education agencies assuming the function of

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<sup>5</sup>Ibid., pp. 73-75.

the High School Associations . . . I would not see any justification for replacing the high school association with the department of public instruction as a regulatory agency. I believe that a fundamental difference exists between these two bodies, and that this distinction often goes unrecognized by those who maintain that the only place for supervision of high school activities is the state education agency.

As an independent agency, the association is free from domination by any single force. The good of the whole of its membership must govern, and the effect of any partisan pressures or influences is minimized. As an independent agency, the association is free to concentrate on its primary objectives, without problems of legislation, appropriation of funds, and such related matters which necessitates considerable attention by state education agencies.<sup>6</sup>

A survey conducted in 1969 on "The Relationship of State Associations and State Departments" indicated that only six Associations operated under the direction of the State Department of Education, while sixteen Associations had representatives from the State Department of Education on their Governing Board. A total of twenty-one states did report that they had either an advisory or ex-officio member representing their State Department of Education on the Governing Board. In response to a question concerning difficulty with state legislatures, twenty states indicated

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<sup>6</sup>Harriet Miller, "The Advantages of Being Independent" (paper presented at the 41st annual meeting of the National Federation of State High School Associations, East Glacier Park, Montana, July 6, 1960).

they had experienced some conflict with this body. In relation to pressure from the State Department of Education, only six states reported having problems with their respective Department of Education's attempt to force standards on the Association.<sup>7</sup>

In a follow-up survey conducted in 1975 the National Federation found few changes in the relationship of State Departments and State Associations. At this time five State Associations operated directly under the State Department of Education. A total of seventeen State Departments of Education were represented on the Governing Boards of the High School Associations.<sup>8</sup> The survey conducted by Dalley in 1969 had reported sixteen with representation.<sup>9</sup>

Since 1969, nine State Associations have reported pressure from the State Department of Education to force standards on their Association and during this same period

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<sup>7</sup>Rex R. Dalley, "The Relationship of State Associations to the State Department" (paper presented at the 50th annual meeting of the National Federation of State High School Associations, Las Vegas, Nevada, July 11, 1969).

<sup>8</sup>"Summary of Policy Questionnaires" (Chicago: National Federation of State High School Associations, 1975).

<sup>9</sup>Dalley, op. cit.

seventeen have reported difficulty with their state legislature.<sup>10</sup>

In stressing the need for a close working relationship between the office of State Superintendent and the State Association, State Superintendent Ray Page made the following recommendations:

First, the Superintendent of Public Instruction or his designated representative should be an ex-officio member of the Board of Directors of the High School Athletic Association and, as an ex-officio member he should not vote. It is important that the Superintendent of Public Instruction keep informed on the actions of the Board of Directors of the High School Association and be cognizant of discussions leading to major decisions.

Second, the Superintendent of Public Instruction should meet at least once a year with the Board of Directors of the High School Association so that mutual problems can be discussed, and this provides an opportunity of becoming better acquainted. Personal friendship to such professional associations does not permit disagreements to become serious issues.

Third, a regular communication must be developed between the State Department of Public Instruction and the high school association. This two-way street of cooperation requires that the state superintendent should receive publications as well as copies of the minutes of the board of directors of the high school association.<sup>11</sup>

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<sup>10</sup>"Summary of Policy Questionnaires," op. cit.

<sup>11</sup>Ray Page, "State Department of Public Instruction and the State High School Associations Relationships" (paper presented at the 50th annual meeting of the National Federation of State High School Associations, Las Vegas, Nevada, July 11, 1969).

Earl O. Berge, a member of the Board of Control of the Iowa High School Athletic Associations, expressed a deep concern relating to influence of state legislatures over State Associations:

Since the state Department of Public Instruction is under the arm of the legislature there is always the possibility of some eager legislator introducing legislation for placing complete control under the state Department of Public Instruction and then the battle lines will be drawn. Can you imagine the problems of the state superintendent if he would be required to rule on the problems of eligibility, discipline cases, selecting tournament sites, officials, conducting the tournament programs with all its problems and all the situations now so ably administered by the executive personnel of the associations, with the assistance of school personnel serving on the various "Boards of Control" who donate their time in administering the various programs.<sup>12</sup>

The National Federation is very much aware of the complex problems facing State Associations in relation to their legal status. The following statement appeared in their 1975 handbook:

The legal status of State High School Associations varies. In certain states, the organization is considered an instrument of the state and in others a completely independent body. The majority are designated

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<sup>12</sup>Earl O. Berge, "State Legislatures and State Associations" (paper presented at the 55th annual meeting of the National Federation of State High School Associations, Louisville, Kentucky, July 4, 1974).

as independent but quasi-governmental organizations responsible to the schools. The legal aspects of State Associations is of increasing concern because of the frequency of court action. At one time, standards adopted by State Associations were accepted without question. When they were not followed, or if they were ignored, the resulting disciplinary action was expected. Recently, however, nearly every rule and regulation is questioned. The attitude that "rules are for others but do not apply to me" is prevalent. When standards are applied and an individual or school is aggrieved, court action often follows.<sup>13</sup>

With the growing concern relative to the legal status of State Associations and the possibility of lawsuits, the National Federation has developed a type of legal insurance. It has become obvious to individual Associations that an adverse court decision in one state might have persuasive influence in another. The Mutual Legal Aid Pact has been established to keep the State Associations informed on legal actions.<sup>14</sup> This procedure makes available to each Association legal briefs which could be used in connection with defense against court action. It also provides limited aid to any State High School Association involved in a Supreme Court case which may be of a precedent-setting nature.<sup>15</sup>

On the basis of the data presented, there seems to be little doubt that State High School Associations enjoy

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<sup>13</sup>National Federation Handbook, 1974, pp. 64-65.

<sup>14</sup>Ibid.      <sup>15</sup>Ibid.

full legal status, the same as any other voluntary group organized for a common purpose. However, it is still unclear if such Associations have the official sanction to conduct and supervise interscholastic athletics. Unfortunately, many administrators have assumed that Associations do function in an official capacity. Shepard and Jameson reported that in order to establish the position of the State High School Athletic Association in the public school administrative structure in most states, legislation should be passed designating this Association directly, or indirectly through the State Department of Education, as the official agency for controlling interscholastic athletics.<sup>16</sup>

#### ELIGIBILITY

The rules and regulations concerning eligibility have long been one of the most debated areas in the State Associations. The various State Association eligibility standards are generally closely related, but not always the same. The National Federation has compiled a comprehensive

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<sup>16</sup>George E. Shepard and Richard E. Jameson, Interscholastic Athletics (New York: McGraw-Hill Book Company, 1953), p. 37.

list of recommended standards for use by the State Associations. These can be found in Appendix F.

In recent years eligibility rules have been challenged continuously in the courts. One of the specific areas of concern has been the definition of the legal residence of the participant in athletic activities. Normally determination is made by the residence of the student's parents. However, now that a student becomes an adult at eighteen and has the legal right to establish his or her own residence, there is no reason to assume that the student will always reside with the parents. If the student is self-supporting, it compounds the problem when a move is made to another school district. Was the move made for the sole purpose of playing for a certain team, or was it necessary for other reasons? Problems such as these have made residence requirements even more complex and controversial.

Should a student be required to meet minimum academic standards before being allowed to participate in varsity sports? This question has long been a debated issue. Edmondson made the following statement in defense of no requirements:

This last problem (eligibility) is especially interesting in relation to the currently developing philosophy that emphasizes recognition of the



individual, whatever his plane of ability or his degree of interest. In such light, there can be no sound support of imposing scholastic ability as a limitation upon participation in any student activity fostered by the school. The fact that many schools now feel particularly hindered in realizing objectives for individual development, because of the inflexibility of state association eligibility regulations, has raised a most significant problem for the administrator.<sup>17</sup>

In support of academic requirements Koos offered the following:

Pupils unable to maintain a satisfactory academic standing should not be permitted to participate even in practice for interscholastic athletics. Intramural programs are more satisfactory for such pupils, as the practice and contests are less time-consuming and less strenuous.<sup>18</sup>

Which of these two points of view will best provide for the student? Shepherd emphasized that varsity athletics may be the one place in the school program where the interests and needs of the student may be best fulfilled. On the other hand, by dropping all academic requirements, many students who could otherwise proceed through school at a normal rate may take advantage of the situation and neglect their studies.

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<sup>17</sup>J. B. Edmondson and others, The Administration of the Modern Secondary School (New York: The Macmillan Company, 1948), p. 280.

<sup>18</sup>Leonard V. Koos and others, Administering the Secondary School (New York: American Book Company, 1940), p. 118.

Athletics are so appealing that many youngsters, in their zeal and enthusiasm, may neglect the academics if not challenged by a set of standards.<sup>19</sup>

On the question of academic achievement, Forsythe believed there is a need for maintaining academic standards.

He stated:

True, athletics are activities in which all high school students should have the right to participate. With this right to participate, however, it should be recognized that certain responsibilities exist. The situation in an athletic contest between schools is somewhat different from that in an activity within the school or class itself. Competition should not be considered as against another school but with that school. Since the interschool competition should be between teams that are the apex of broad intraschool programs, membership on those teams inevitably will be selective. Therefore schoolmen have felt that team members should meet minimum established standards, including character, school citizenship, and scholarship as well as athletic prowess. Also, it is apparent that the establishment of a statewide minimum scholastic requirement has enabled local schools to use this standard to advantage in their own institutions.<sup>20</sup>

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<sup>19</sup>George E. Shepard, "A Study of State Organizations Conducting Programs of Interscholastic Athletics, with Particular Implications for North Carolina" (Doctoral dissertation, Columbia University, 1948), p. 98.

<sup>20</sup>Charles E. Forsythe, The Administration of High School Athletics, 2nd ed. (New York: Prentice-Hall, Inc., 1948), p. 70.

In a more recent stand, the National Association of Secondary School Principals in 1975 released the following statement:

The association believes the expansion of student activities to be constructive and beneficial to youth. NASSP endorses the broad participation of youth in a variety of activities and athletics as contrasted to their status as simple spectators. Since student activities and athletics play such an important role in the maturation of youth and in their effectiveness as adults, no student in good standing in a school should be denied participation because of scholastic prerequisites. Good standing is interpreted to mean adequate class attendance and satisfactory adherence to school policies to include those on student behavior.<sup>21</sup>

Fortunately, the majority of high school participants are not adversely affected by academic requirements. Those that are appear to be gaining support to have a more lenient regulation adopted. However, the possibility of eliminating the requirement entirely seems quite remote at this time. This is evidenced by the fact that the New York High School Association is the only State Association that does not have academic requirements for eligibility (Table 8).

According to Robinson's study on State Associations, there is general uniformity among the fifty Associations

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<sup>21</sup>This We Believe (Reston, Virginia: National Association of Secondary School Principals, 1975), p. 50.

Table 8

Regulations on Age, Academic Requirements, and Physical  
Examination Requirements; Restrictions on Summer  
Camp Attendance, All-Star Contests, and  
Coaches' Faculty Status, 1974-75<sup>24</sup>

State	Age at Which Student Becomes Ineligible for Interscholastic Activities for the School Year	Academic Achievement Required for Eligibility	Physical Examination Required for Eligibility	Summer Sports Camp Restricted	All-Star Contest Permitted	Coach Required to be Full-time Faculty Member
Alabama	19 before Sept. 1	x	x		x	
Alaska	19 before Sept. 1	x				
Arizona	19 before Sept. 1	x	x	x		
Arkansas	20th birthday	x	x	x	x	x
California	19 before Sept. 1	x	x		x	x
Colorado	19 before Aug. 20	x	x	x		x
Connecticut	19 before Sept. 1	x	x	x		x
Delaware	*19 before Aug. 25, Nov. 15, Mar. 1	x	x	x		x
Florida	19 before Sept. 1	x	x		x	
Georgia	19 May 1 prior year	x	x	x	x	x
Hawaii	18.9 before Sept. 1	x		x	x	
Idaho	20th birthday	x				
Illinois	19 before Aug. 15	x	x	x		x
Indiana	*19 before Aug. 15, Nov. 1, Mar. 1	x	x	x		x
Iowa	20th birthday	x	x	x		

Table 8 (continued)

State	Age at Which Student Becomes Ineligible for Interscholastic Activities for the School Year	Academic Achievement Required for Eligibility	Physical Examination Required for Eligibility	Summer Sports Camp Restricted	All-Star Contest Permitted	Coach Required to be Full-time Faculty Member
Kansas	19 before Sept. 1	x	x	x	x	x
Kentucky	*19 before Sept. 1, Nov. 1, Aug. 1	x	x		x	x
Louisiana	19 before Sept. 1	x		x	x	x
Maine	20th birthday	x				
Maryland	19 before Aug. 31	x	x	x		
Massachusetts	19 before Sept. 1	x	x	x	x	
Michigan	19 before Sept. 1	x	x	x		
Minnesota	20th birthday	x	x	x		x
Mississippi	19 before Sept. 1	x	x			x
Missouri	19 before Sept. 1	x		x		
Montana	19 before Sept. 1	x	x	x	x	x
Nebraska	19 before Sept. 1	x	x	x	x	x
Nevada	19 before Sept. 1	x		x		x
New Hampshire	19 before Sept. 1	x	x			x
New Jersey	19 before Sept. 1	x	x	x		x
New Mexico	19 before Aug. 31	x	x			
New York	19 before Sept. 1		x			x
North Carolina	19 before Oct. 17	x	x	x	x	
North Dakota	20th birthday	x	x	x		
Ohio	19 before Sept. 1	x	x	x	x	x
Oklahoma	19 before Sept. 1	x	x		x	

Table 8 (continued)

State	Age at Which Student Becomes Ineligible for Interscholastic Activities for the School Year	Academic Achievement Required for Eligibility	Physical Examination Required for Eligibility	Summer Sports Camp Restricted	All-Star Contest Permitted	Coach Required to be Full-time Faculty Member
Oregon	*19 before Sports Season Starts	x	x	x		x
Pennsylvania	19 before Sept. 1	x	x	x	x	x
Rhode Island	19 before Sept. 1	x	x			
South Carolina	20th birthday	x	x	x	x	
South Dakota	20th birthday	x	x	x		x
Tennessee	19 before Sept. 1	x	x			x
Texas	19 before Sept. 1	x		x		x
Utah	19 before Sept. 1	x	x			x
Vermont	20th birthday	x	x		x	
Virginia	*19 March 1 prior year	x	x	x		x
Washington	*20 before Aug. 31, Dec. 1, Mar. 1	x	x	x		x
West Virginia	20th birthday	x	x			x
Wisconsin	19 before Aug. 1	x	x			
Wyoming	20th birthday	x	x		x	

Source: State Association Handbooks.

\*Eligibility terminated at end of fall, winter, or spring sports season.

<sup>24</sup>Ibid., p. 95.

regarding amateur status, awards and nonschool participation. In addition, forty-two states require participants to undergo a physical examination to gain eligibility.<sup>22</sup>

Only nineteen states allow for all-star contests and in each case these must be sanctioned by their respective State Association (Table 8). Those states permitting all-star competition restrict the games to those sponsored by the coaches' association and held in connection with the coaches' clinic.<sup>23</sup> An example of this practice can be found in the North Carolina High School Athletic Association Annual Clinic and All-Star contests. The All-Star competition includes a football and basketball game for outstanding male seniors. In 1976 basketball competition was added for girls.

#### DUE PROCESS

One of the major concerns of State High School Associations during the past ten years has been to determine their role in providing a proper procedure for due process. Until this time the Associations had operated with little thought

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<sup>22</sup>Jay M. Robinson, "The Development of a Model Constitution and Bylaws for a High School Activities Association for the State of North Carolina" (Doctoral dissertation, Duke University, 1976), p. 96.

<sup>23</sup>Ibid., p. 97.

for this procedure. Bush, State Director of the Michigan High School Athletic Association, provided the following motto that seems appropriate for this time: "The Rule is Clear; the Penalty is Severe." Today, however, the motto would read, "To whom may this be appealed?"<sup>25</sup> He emphasized that it is becoming increasingly clear that an appeal process is necessary if there is to be enforcement of a logical and realistic organization in athletics.<sup>26</sup> Bush referred to due process as an elastic phrase that may be applied to nearly any decision-making process. It is considered elastic because not every case would require the same procedure. He offered three major types of decision-making in which some appeal procedure should be considered:

1. Those involving game rules, meet rules, qualification or deadlines.
2. Those involving a request for waiver of existing rules, but no violation has occurred.
3. Those in which there has been a violation by a school or an individual.<sup>27</sup>

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<sup>25</sup>Allen W. Bush, "Due Process and State Associations" (paper presented at the 56th annual meeting of the National Federation of State High School Associations, San Diego, California, July 10, 1975).

<sup>26</sup>Ibid.      <sup>27</sup>Ibid.



Bell, an Indiana attorney, warned State Associations not to "get married to present rules so that a change has to be made by legal separation."<sup>28</sup> He strongly encouraged the Associations to make every effort to provide a procedure for review of a decision because this would make the court more hesitant to issue a restraining order or an injunction without first requiring the plaintiff to exhaust each internal appellate procedure. He also contended that a favorable impression could be made on the court by giving as much due process as possible when it is not mandated in legal terms.<sup>29</sup>

In 1971 Freng, Executive Secretary of the Minnesota High School League, reported that his Association had just adopted a due process clause. He contended that this was the first effort by any state to provide a procedure of due process which would allow an individual to appeal loss of eligibility.<sup>30</sup> During this same year the State Association

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<sup>28</sup>Harold J. Bell, "The Courts and State Associations" (paper presented at the 52nd annual meeting of the National Federation of State High School Associations, Denver, Colorado, July 15, 1971).

<sup>29</sup>Ibid.

<sup>30</sup>Murrae N. Freng, "This Was the Year That Was!" (paper presented at the 52nd annual meeting of the National Federation of State High School Associations, Denver, Colorado, July 15, 1971).

of Arizona recommended the following basic requirements for due process:

1. Give adequate notice of the charges
2. Allow reasonable opportunity for the defendant's preparation to meet the charges
3. Have an orderly hearing which includes the student in the presence of a coach, athletic director, teacher and/or parent-guardian
4. Give written statement of facts
5. Provide for a fair and impartial decision based on substantial evidence
6. File a written report for further use if needed.<sup>31</sup>

In 1975, the Michigan Department of Education produced a guide for students' rights which included the following points relative to due process:

1. The timely and specific notice of charges against the student
2. The student's right to question each member of the professional school, staff involved in, or witness to, the incident
3. The student's right to present evidence in his or her behalf
4. The student's right to an impartial hearing
5. The student's right to confront and to cross-examine adverse witnesses and to present witnesses in his or her behalf
6. The student's right to be represented by a qualified counsel at the hearing
7. The student's right to a record of the hearing

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<sup>31</sup>Arizona Interscholastic Association, "Hi-Lites"  
(Phoenix, Arizona, December, 1971). (Mimeographed.)

8. The student's right to appeal an unfavorable decision by the hearing panel to a higher authority.<sup>32</sup>

The need to provide an appropriate procedure for due process is evidenced by recent court rulings. In *Goss v. Lopez*, the United States Supreme Court ruled that a school board has the responsibility for making adequate provisions for due process when excluding students from school.<sup>33</sup> In *Barrett v. The Ohio High School Athletic Association* the Appeals Court of Ohio held that due process must be provided when excluding students from interscholastic athletic competition. In this case the Ohio High School Athletic Association placed the Maple Heights High School Wrestling Team on probation for fighting with another team. They were barred from participating in the 1975 state tournaments. An appeal was made to the Court and this resulted in injunctive relief to Maple Heights High School. The Court said that the Ohio High School Athletic Association's decision was "state action" and thus subject to the due process requirement of the Fourteenth Amendment of the United States

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<sup>32</sup>A Recommended Guide for Students' Rights and Responsibilities in Michigan (Lansing, Michigan: Michigan Department of Education, 1975), pp. 8-9.

<sup>33</sup>*Goss v. Lopez*, 95 S. Ct. 729 (1975).

Constitution. This decision was appealed by the Board of Control of the Ohio High School Athletic Association. However, the Appeals Court affirmed the decision of the Lower Court.<sup>34</sup>

#### APPEAL PROCEDURES

In reviewing the handbooks of state Associations, it was found that the majority did not provide an appeal procedure. However, most of the Associations did state that they permitted appeals from individuals to the governing body, but failed to outline any procedure for the appeal. Twenty-seven of the Associations have a hardship rule that permits the Board of Control to make exceptions when extenuating circumstances occur. Some State Associations permit various levels of appeal. However, they have not developed any procedure that would guarantee due process, while others will permit an appeal only when it is approved by the principal of the school.<sup>35</sup>

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<sup>34</sup>Barrett v. Ohio High School Athletic Association, N.E. 2d (Ct. App. Ohio, 1975).

<sup>35</sup>Robinson, op. cit., p. 97.

New Jersey was found to have the most detailed procedure of any State Association. That state's hearing procedure was as follows:

Section 1. The President of the New Jersey State Interscholastic Athletic Association shall nominate two committees of no less than four members each and a chairman of each committee, none of whom shall be members of the New Jersey State Interscholastic Athletic Association Executive Committee. One Committee shall make initial determination of all controversies involving eligibility arising under the constitution, bylaws and rules and regulations of the New Jersey Interscholastic Athletic Association. The second committee shall make initial determination of all other controversies arising under the constitution, bylaws and rules and regulations of the New Jersey State Interscholastic Athletic Association.

Those persons nominated to the second committee shall be members of the Advisory Committee of the New Jersey State Interscholastic Athletic Association. Those persons nominated to both Committees by the President shall be confirmed by the Executive Committee by a majority vote prior to beginning their service on the respective committee. They shall serve for one year to expire on the last day of June following their appointment. The Chairman of the respective Committees shall not vote except in the case of ties. The Committees shall be as representative as possible of all groups represented on the Executive Committee of the New Jersey State Interscholastic Athletic Association.

In the event any party is aggrieved by any decision they may appeal to the Executive Committee of the New Jersey State Interscholastic Athletic Association which shall determine the matter in accordance with the provisions of the Bylaws and Constitution of the New Jersey State Interscholastic Athletic Association.

Section 2. To assure procedural due process each Conference will request the Executive Secretary to designate an appropriate area representative to be the chief "judicial officer" of the Conference. Said area representative will be the hearing officer in any and all disputes or controversies which require hearings. He shall reduce his report to writing, said report will form the "record" in the event of an appeal to N.J.S.I.A.A. provided, however, that the Executive Committee of the Association may, at the sound exercise of its discretion, permit this record to be expanded.

Section 3. All disputes or controversies between member schools are subject to review by the N.J.S.I.A.A. Executive Committee. The procedure to be followed is:

(1) After a ruling by a conference any aggrieved party may appeal the decision in writing to the N.J.S.I.A.A. A copy of the Notice of Appeal shall be served on all interested parties. Within ten days of receipt of a Notice of Appeal the Conference will file a formal written reply to the Secretary of the N.J.S.I.A.A. with a copy to all interested parties. In any controversy a party may institute proceedings before the Executive Committee by filing a written complaint with the Secretary of the Association with a copy to all interested parties. Any interested party may respond within ten days, in writing, by filing the answer with the Secretary. After the initial documents have been received, the Executive Committee of the N.J.S.I.A.A. will determine,

(a) Whether it will summarily decide the matter based on the information filed with it.

(b) Whether it will designate a hearing officer or a panel of the Executive Committee to hear the matter.

(c) Whether the entire Executive Committee will hear the matter.

(d) Whether the matter shall be referred to a Conference action.

(2) In the event of a hearing, all parties will receive at least ten days notice in writing.

All parties will be given an opportunity to be heard and a copy of the decision in writing will be delivered to all interested parties.

(3) In the event a party is not satisfied with the determination after the hearing, an appeal may be filed to be considered by the Executive Committee of the N.J.S.I.A.A. in its entirety. Said appeal shall be in writing served on all interested parties with a reply to be served within seven days of the receipt of a copy. Such appeal shall be presented to the entire Executive Committee of the N.J.S.I.A.A. who shall determine the matter presented, provided, however, in extraordinary cases the Committee may elect to request the parties to appear before it.

(4) All hearings shall be of two types:

(a) Informal

(b) Formal

(5) At formal hearings all witnesses will be sworn, the right of cross-examination shall be preserved. Parties requesting a formal hearing shall be required to post a letter by the appropriate office of the school district guaranteeing the payment of the cost of a court reporter, plus a fee not to exceed \$25.00.<sup>36</sup>

Robinson, in his study of State Associations, reported that the five states mentioned previously had the most detailed method for a student or a parent to protest a decision adversely affecting their eligibility to take part in interscholastic athletics. He reported that the New York appeal procedure provided more levels of appeal, but

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<sup>36</sup>New Jersey State Interscholastic Athletic Association Handbook, 1974-75, pp. 46-48.

failed to include a third or neutral party in the hearing.<sup>37</sup>  
The New Jersey procedure is difficult to interpret although  
its hearing procedure does provide the best means of satisfying  
court requirements for guaranteeing due process.

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<sup>37</sup>Robinson, op. cit., p. 104.



## Chapter 4

### CONSTITUTIONAL LAWS INVOLVED IN THE LITIGATION ON STATE HIGH SCHOOL ATHLETIC ASSOCIATIONS

Legal recourse is available to any individual or group who believes that an injustice has been committed against them. The United States Constitution provides the vehicle for which to settle these disputes. It is the responsibility of lawyers and the courts to define and interpret the meaning of the Constitution.<sup>1</sup> There are a growing number of individuals who have taken issue with some of the restrictions imposed by the rules and regulations of the State High School Athletic Associations. These individuals believe that these restrictions are discriminatory in nature.

The results of court decisions are based on the premise that constitutional denial has been applied to individuals or groups under the auspices of the regulations of

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<sup>1</sup>Milton E. Reece, "The National Collegiate Athletic Association and the Courts: A Summary of Litigation Involving the Constitutional Laws of the United States and the Rules of the National Collegiate Athletic Association" (Doctoral dissertation, University of North Carolina at Greensboro, 1975), p. 51.

the State Associations. It is essential to identify and examine the litigation in order to properly categorize the actions. The categories under federal jurisdiction include the Constitutional Amendments and their interpretations.<sup>2</sup>

The litigation that has resulted in appeals to the Federal Courts for relief of the rulings of the State High School Athletic Associations cite the Fourteenth Amendment and Title IX of the Education Amendments Act of 1972 as basis for the action. Table 9 identifies the jurisdiction of the litigation and Table 10 shows the three separate interpretations found in the Fourteenth Amendment.

All twenty-six cases reported in this study filed claims in the Federal Courts under the jurisdiction of the Fourteenth Amendment. This amendment contains three separate areas. The equal protection clause has been the area most often cited in the litigation. State action and due process are the other two areas defined.

In order to meet the constitutional demands of the equal protection clause, a statute or regulation must bear a rational relationship to the purpose for which it was enacted. The focus of those courts which have considered

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<sup>2</sup>Ibid.

Table 9

## Jurisdiction of the Litigation

Case	State Court	Federal Court	Court of Appeals
Allen v. California		X	
Bell v. Illinois	X		
Brenden v. Minnesota		X	X
Brandstetter v. Indiana	X		
Bucha v. Illinois	X	X	X
Cape v. Tennessee		X	X
Carnes v. Tennessee		X	
Commonwealth v. Pennsylvania	X		
Darrin v. Washington	X	X	X
Gilpin v. Kansas		X	
Gregorio v. New Jersey	X		
Haas v. Indiana	X		X
Harris v. Illinois		X	
Hollander v. Connecticut	X		
Hoover v. Illinois		X	
Knox v. Colorado		X	
Kuchl v. Iowa		X	
Lavin v. Illinois		X	
Mora v. Colorado		X	
Morris v. Michigan		X	
Jones v. Oklahoma		X	
Purnell v. Pennsylvania		X	
Reed v. Nebraska		X	
Ritacco v. Pennsylvania		X	
Rubel v. Iowa		X	
Zald v. Michigan		X	

Table 10

## Litigation Involving the Fourteenth Amendment

Case	State Action	Equal Protection	Due Process
Allen v. California		X	
Bell v. Illinois	X	X	
Brenden v. Minnesota		X	X
Brandstetter v. Indiana		X	
Bucha v. Illinois	X	X	
Cape v. Tennessee	X	X	X
Carnes v. Tennessee	X	X	
Commonwealth v. Pennsylvania	X	X	
Darrin v. Washington	X	X	
Gilpin v. Kansas		X	
Gregorio v. New Jersey		X	
Haas v. Indiana	X	X	X
Harris v. Illinois		X	X
Hollander v. Connecticut		X	
Hoover v. Illinois	X	X	
Knox v. Colorado		X	X
Kuchl v. Iowa	X		
Lavin v. Illinois		X	
Mora v. Colorado		X	
Morris v. Michigan	X	X	X
Jones v. Oklahoma		X	
Purnell v. Pennsylvania		X	
Reed v. Nebraska		X	X
Ritacco v. Pennsylvania		X	
Rubel v. Iowa	X	X	X
Zald v. Michigan	X	X	X

sex discrimination in athletics has been on whether the alleged discriminatory rule, promulgated by the State Athletic Association, bore a rational relationship to the sex-based classification.<sup>3</sup> The United States Supreme Court has developed two standards for reviewing equal protection cases--the Low Scrutiny Model or rational test; and the High Scrutiny Model, or the more stringent State Interest Test. With the Low Scrutiny Model, the purpose of a legislative scheme is identified and then consideration is given as to whether the challenged discrimination bears a rational relationship to the stated purpose. The High Scrutiny Model applies where the classification is grounded on certain "suspect" criteria or otherwise infringes certain "fundamental" rights.<sup>4</sup>

Although a State High School Athletic Association typically operates without any state sanction, for constitutional law purposes, there is sufficient "state action" involved to permit a federal court to entertain a complaint against such Associations.<sup>5</sup> It has been held specifically

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<sup>3</sup>Jane C. Avery, "Validity, Under Federal Law, of Sex Discrimination in Athletics, America Law Reporter, 23 (1974), 2a.

<sup>4</sup>Kenneth M. Stroud, "Sex Discrimination in High School Athletics," Indiana Law Review, 6 (1973), 663.

<sup>5</sup>Dale C. Doerhoff, "State High School Athletic Associations: When Will the Courts Interfere?" Missouri Law Review, 36 (1971), 406.

that actions of School Boards and High School Athletic Associations constitute state action. Young and Gehring have maintained that the application of state action is appropriate if an institution is completely involved in the public purpose.<sup>6</sup>

Despite the fact that Athletic Associations classify themselves as "voluntary associations," the courts have considered the following factors in concluding that the requisite state action existed: (1) The members of these Associations are tax-supported institutions; (2) Expenses are paid from revenues derived from sponsored events between public schools; (3) School officials, who receive their salaries from the state, are generally those who operate and govern the Associations; and (4) Facilities used were constructed, operated and maintained at taxpayer expense.<sup>7</sup>

School boards have delegated authority and responsibility to the State Athletic Associations to regulate all athletic contests. These Associations have emphasized that participation in athletics is voluntary and should be

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<sup>6</sup>D. Parker Young and Donald D. Gehring, "The College Student and the Courts," College Administration Publications, 6 (April, 1974 Supplement), 8.

<sup>7</sup>Avery, op. cit., p. 2b.

considered a privilege. However, in the case of St. Augustine High School vs. Louisiana High School Athletic Association, the court refused to let words such as "voluntary" and "private" influence their analysis and stated:

For the state to devote so much time, energy and other resources to interscholastic athletics and then to refer coordination of those activities to a separate body cannot obscure the real and pervasive involvement of the state in the total program.<sup>8</sup>

Affirming, the Fifth Circuit Court stated:

There can be no substantial doubt that the conduct of the affairs of the Louisiana High School Association is state action in the constitutional sense.<sup>9</sup>

In considering "state action" as it applied to the rules of the Indiana High School Athletic Association the courts indicated that:

. . .the IHSAA imposes on its member schools and their respective principals and coaches certain rules, duties and responsibilities . . . .In the majority of cases, the salaries of the respective principals and coaches are derived from tax funds, athletic contests are held in, or on, athletic facilities which have been constructed and maintained with tax funds . . . it is abundantly clear that the association's very existence is entirely dependent upon the absolute cooperation and support of the public school systems of the State of Indiana.

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<sup>8</sup>Sandra Wien, "The Case for Equality in Athletics," Cleveland Law Review, 22 (1973), 574.

<sup>9</sup>Ibid.

The enforcement of the rules promulgated by the IHSAA and adopted by the member schools may have a substantial impact upon the rights of students enrolled in these tax supported institutions, and we conclude, therefore, that the administration of interscholastic athletics by the IHSAA should be considered to be "state action" within the meaning of the Fourteenth Amendment.<sup>10</sup>

The third area that provides for court action under the Fourteenth Amendment is that of "due process." The term due process appears in two Amendments to the United States Constitution. The Fifth Amendment which applies only to the federal government, states that "No person . . . shall be deprived of life, liberty, or property without due process of law." The same words are used in the Fourteenth Amendment, but refers to the powers of the state.

Appenzeller indicated that the law distinguishes between due process as substantive and as procedural.<sup>11</sup> Substantive due process places the burden on the state to have a valid goal before depriving an individual of his rights of due process. Procedural due process involves: an individual having proper notice that he is about to be deprived of life,

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<sup>10</sup>Ibid.

<sup>11</sup>Herb Appenzeller, Athletics and the Law (Charlottesville, Virginia: The Michie Company, 1975), p. 218.



liberty or property; being given the opportunity to be heard; and being afforded a fair trial or hearing.<sup>12</sup>

#### INTERPRETATIONS OF CONSTITUTIONAL AMENDMENTS

The interpretations of the Constitution of the United States and its Amendments are included in the Code of Laws of the United States of America. It is the responsibility of the United States Code Service to interpret notes and decisions that have been rendered in cases involving constitutional jurisdiction.<sup>13</sup>

The statutory provisions that were most often used in cases included in this study were Title 42 of the United States Code Service and Title 28 of the Federal Code Annotated.<sup>14</sup> Both of these provisions define civil rights' actions and judicial procedure in the Federal Courts. Table 11 identifies the litigation citing the jurisdiction of these titles.

Title 42, Section 1983, was the most frequently used interpretation in the cases in this study. The text of this interpretation is as follows:

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<sup>12</sup>Ibid.

<sup>13</sup>Reece, op. cit., p. 64.

<sup>14</sup>Ibid., p. 61.

Table 11

Litigation Involving Civil Rights  
and Judicial Procedures

Case	Title 20 Section		Title 28 Section					Title 42 Section		
	1681	1682	1254(1)	1331	1343(3)	2201	2202	1983	1985	1988
Allen v. California					X			X		
Bell v. Illinois								X		
Branden v. Minnesota								X		
Brandstetter v. Indiana		X						X		
Bucha v. Illinois								X		
Cape v. Tennessee								X		
Carnes v. Tennessee	X							X		
Commonwealth v. Pennsylvania										
Darrin v. Washington			X					X		
Gilpin v. Kansas					X			X		
Gregorio v. New Jersey								X		
Haas v. Indiana								X		
Harris v. Illinois					X			X		
Hollander v. Connecticut								X		
Hoover v. Washington					X			X		
Jones v. Oklahoma								X		
Knox v. Colorado					X			X	X	
Kuchl v. Iowa	X			X	X	X	X	X		

Table 11 (continued)

Case	Title 20 Section		Title 28 Section				Title 42 Section			
	1681	1682	1254(1)	1331	1343(3)	2201	2202	1983	1985	1988
Lavin v. Illinois								X		
Mora v. Colorado								X		
Morris v. Michigan					X	X	X	X		
Purnell v. Pennsylvania								X		
Reed v. Nebraska								X		
Ritocco v. Pennsylvania								X		
Rubel v. Iowa								X	X	X
Zald v. Michigan								X		

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.<sup>15</sup>

Section 1983 explains that when a person is deprived of his rights or privileges under the Constitution the individual responsible for this deprivation shall be liable for redress or damages.

Section 1985 explains that if a person attempts to deny another person equal protection, then the injured party may recover damages.

Section 1988 provides an explanation for the common law standards. It explains that statutes exist in the District Courts where civil and criminal matters are deficient under remedies of the Constitution.

Title 28 includes several sections that were involved in the litigation. However, the frequency of their use was limited. Section 1331 indicates that when the amount of damages exceeds \$10,000.00 the District Court has jurisdiction. Section 1254 describes the method of appeal to the Supreme

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<sup>15</sup>Avery, op. cit., p. 1a.

Court before or after rendition of judgment in the lower courts.<sup>16</sup> Section 1343(3) declares the Civil Rights Act as providing Federal jurisdiction. The text of this section is as follows:

The District Courts shall have original jurisdiction of any civil action authorized by law to be commenced by any person: . . .

(3) to redress the deprivation, under color of any State Law, statute, ordinance, regulation, custom or usage, or any right, privilege or immunity secured by the Constitution of the United States or by any Act of Congress providing for equal rights of citizens or of all persons within the jurisdiction of the United States;

(4) to recover damages from such action.<sup>17</sup>

Sections 2201 and 2202 describe the procedure of the Federal Courts in each case. Table 11 indicates there were only two cases involving each of these sections that solicited interpretations. Section 2201 permits the Federal Court to issue a final declaration in any action other than those involving federal taxes. Section 2202 permits the adverse party the opportunity to file for a rehearing after the final decree has been issued.<sup>18</sup>

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<sup>16</sup>Reece, op. cit., p. 61.

<sup>17</sup>United States Code Service, Lawyers Edition, Judicial Procedure Title 28 and Public Health and Welfare Title 42 (Rochester: The Lawyers Cooperative Publishing Company, 1973), p. 174.

<sup>18</sup>Ibid., p. 196.

The Amendments and interpretations described and defined in the preceding paragraphs have all been cited in the litigation. As illustrated in Table 11 the Section most often referred to was 1983 under Title 42. As indicated in Table 9 twenty cases in the study reached the Federal Courts. Five cases were referred to the Court of Appeals and two reached the Supreme Court.

#### TITLE IX OF THE EDUCATION AMENDMENTS ACT OF 1972

The purpose of this law is to prohibit sex discrimination in any program and activity in the field of education. Title IX of the Education Amendments states:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance . . . .<sup>19</sup>

All educational institutions which receive federal money are covered by the provisions of Title IX. These institutions, which include the nation's 16,000 public schools and nearly 2,700 postsecondary institutions, are required to

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<sup>19</sup>Final Title IX Regulations Implementing Education Amendments of 1972: Prohibiting Sex Discrimination in Education, U. S. Department of Health, Education, and Welfare/Office for Civil Rights (Washington: Government Printing Office, 1972), p. 1.

provide equal opportunities to their students regardless of their sex once they are admitted.

Title IX has special implications for girls' interscholastic athletics. This law has already provided far-reaching changes in girls' programs throughout the country. The litigation resulting from Title IX has been limited thus far. However, there have been cases, as reported in this study, and there are cases pending. Of greater significance are the changes in athletic programs that are occurring as a result of the fact that Title IX is the law.

Section 86.33 and Section 86.41 of the Title IX regulations are those that affect athletics directly. Section 86.33 refers to comparable facilities and states:

A recipient may provide separate toilet, locker room, and shower facilities on the basis of sex, but such facilities provided for students of one sex shall be comparable to such facilities provided for students of the other sex.<sup>20</sup>

Section 86.41 is entitled "Athletics" and the regulation states that an institution or district must develop and operate athletic programs according to the designed specifications. The general regulations under Section 86.41 are as follows:

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<sup>20</sup>Ibid., p. 24141.

No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by a recipient, and no recipient shall provide any such athletics separately on such basis.<sup>21</sup>

Due to the significance of regulation 86.41 it has been included in its entirety in Appendix G. Also included in Appendix H are pertinent questions and answers concerning Title IX and athletics.

One of the most controversial issues relating to Title IX has been in determining what provisions are made to allow for separate teams. Where selection is based on competitive skill or the activity is considered a contact sport, separate teams for males and females are permissible. Activities that are considered contact sports include boxing, wrestling, rugby, ice hockey, football, basketball and other sports which involve bodily contact. It is essential that any institution offering separate teams not discriminate on the basis of sex in provision of necessary equipment or supplies, or in any other way. Equal aggregate expenditures are not required.<sup>22</sup>

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<sup>21</sup>Ibid.      <sup>22</sup>Ibid., p. 6.



When noncontact sports are offered, the process of determining who is eligible to participate is more complex.

As is indicated below:

Where a team is a noncontact sport, the membership of which is based on skill, is offered for members of one sex and not for members of the other sex, and athletic opportunities for the sex for whom no team is available have previously been limited, individuals of that sex must be allowed to compete for the team offered. For example, if tennis is offered for men and not for women and a woman wishes to play on the tennis team, if women's sports have previously been limited at the institution in question, that woman may compete for a place on the men's team. However, this provision does not alter the responsibility which a recipient has with regard to the provision of equal opportunity. Recipients are requested to "select sports and levels of competition which effectively accommodate the interests and abilities of members of both sexes." Thus, an institution would be required to provide separate teams for men and women, in situations where the provision of only one team would not "accommodate the interests and abilities of members of both sexes." This provision applies whether sports are contact or noncontact.<sup>23</sup>

It is imperative that equal opportunities be made available to all interested participants. The following factors, included in the Title IX regulations, are used in determining equal opportunity:

Whether the sports selected reflect the interests and abilities of both sexes; provision of supplies and equipment; game and practice schedules; travel per diem allowances; coaching and academic tutoring

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<sup>23</sup>Ibid., p. 7.

opportunities and pay for coaches and tutors;  
locker rooms, practice and competitive facilities;  
medical and training services; housing and dining  
facilities and services; publicity.<sup>24</sup>

The total impact that Title IX will have on girls' inter-scholastic athletics is still unknown at this time. As indicated previously, the presence of Title IX and successful litigation has altered existing programs. Further litigation will undoubtedly depend on the voluntary adjustments made within the secondary school athletic programs. The programs are required to be in total compliance of all Title IX regulations by July 21, 1978. An evaluation of programs after this date will no doubt determine necessary changes.

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<sup>24</sup>Ibid., p. 6.

## Chapter 5

### LITIGATION AND THE STATE HIGH SCHOOL ATHLETIC ASSOCIATIONS

The task of administrating the operation of fifty State Associations, which involve more than 20,000 schools, is one that requires wise and competent leadership. It is the responsibility of each individual Association to establish its own rules and regulations and in turn the member schools are obligated to operate within these limitations. In recent years, leaders within the Associations have found their jobs becoming more difficult and complex as the rules and regulations are being challenged.

In Chapters 2 and 3, a thorough explanation was presented on the organizational structure and function of the State Athletic Associations. Included in this discussion were individual rights of due process and appeal procedures, which are to be afforded each student participant.

The major focus of this study was limited to the litigation involving sex discrimination against girls in interscholastic athletics; therefore, it is essential to consider the procedures leading to this litigation. As reported in

Chapter 3, a majority of the Associations state that they permit appeals from individuals, but do not provide any procedure for appeal. Some states provide several levels of appeal but have no procedure which would guarantee due process. Still others will permit an appeal only when it is approved by the school principal.

No doubt the inconsistencies relating to appeal procedures and due process have encouraged students to turn to the courts for relief. Generally, when a sex discrimination suit has been filed, it has named as defendants both the local school which the plaintiff is attending and the State Athletic Association whose rules are being challenged.

The previous two chapters have categorized the constitutional laws and the State Athletic Associations rules that apply to the litigation. The individual cases cited here are listed in Appendix I. These cases are categorized according to the court's decisions (1) for the plaintiff and (2) for the defendants.

It should be noted, at this point, that the Supreme Court decision in Reed vs. Reed in 1971 has been credited with having a major influence on the litigation reported in this chapter. Although the suit did not pertain to athletics, it nevertheless set a precedent for all sex discrimination cases.

In this case, the court found invalid an Idaho law that discriminated against women who applied for appointment as administrator of an estate. It was determined by the court that this was in conflict with the equal protection clause of the Fourteenth Amendment. The court said:

A classification must be reasonable, not arbitrary, and must rest upon sound ground of difference having a fair and substantial relation to the object of the legislation, so that all persons similarly circumstanced shall be treated alike.<sup>1</sup>

Robinson, in his study of High School Athletic Associations, refers to the Reed case as being extremely significant regarding classification. He reports that this decision implies that the rules of State High School Associations prohibiting girls' participation on boys' teams are a type of state classification, thus subject to the test of the classification that the court has established.<sup>2</sup>

An examination of the twenty-six cases presented in this chapter makes it possible to observe the trends that the court decisions have produced. In addition, at

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<sup>1</sup>Reed v. Reed, Supra 404 U. S. 71 (S. C. T. Idaho 1970).

<sup>2</sup>Jay M. Robinson, "The Development of a Model Constitution and Bylaws for a High School Activities Association for the State of North Carolina" (Doctoral dissertation, Duke University, 1976), p. 69.

the conclusion of this chapter, an effort will be made to identify possible implications that could occur as a result of these trends. A summary of the litigations of the various cases follows. Each case is presented by its title, the sport involved, the jurisdiction under which the case is heard, and the decision of the court.

Rubel v. Iowa Girls' High  
School Athletic Union (1971)

Basketball

Fourteenth Amendment, 28 U.S.C. 1331 and 1343, and 42 U.S.C. 1983, 1985(3) and 1988.

Court declared in favor of the plaintiff

The facts presented in this case identified two issues that were not found in the other cases reported: (1) the female plaintiff was a married student, and (2) the plaintiff was a mother.

The plaintiff, Mrs. Jane Rubel, was a seventeen-year-old student who contended that she was being denied the right to take part in the 1970-71 basketball program because she was married and the mother of an eleven-month-old daughter. The year before she had been a member of the girls' varsity team and, because of her outstanding ability,

had been named to the "Third Girls' All-State Team."<sup>3</sup>

During the summer of 1970, she was married and gave birth to a child in December of that same year. In early 1971 she requested the opportunity to try out for the varsity team.

However, she was informed by the superintendent of schools that she would not be eligible because of the following by-laws of the Iowa Girls' High School Athletic Union:

Section 11. A student is ineligible for any Girls' Union sponsored activities after being associated with a marital status. Any team using an ineligible player, such ineligibility being created by a state of marriage, will recognize its obligations for automatically forfeiting all regular scheduled games in which the player participated. In tournament series the most recent team to be eliminated by the forfeiting team will be allowed to advance into the next round of competition by reason of forfeit.

Section 12. A student associated with motherhood forfeits all eligibility privileges for Girls' Union sponsored activities. Any team using an ineligible player, with such loss of eligibility being created by motherhood, will recognize its obligation for automatically forfeiting all regularly scheduled games in which the player participated. In tournament series, the most recent team to be eliminated by the forfeiting team will be allowed to advance into the next round of competition by reason of the forfeit.

Section 15. To be eligible, athletes shall live at home with their parents or duly appointed guardians in fact. Where the application of this rule works a manifest injustice the Board of Directors may make an exception.

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<sup>3</sup>Brief for Plaintiff, p. 2, Rubel v. Iowa Girls' High School Athletic Union, No. 11-412-C-2 (S. D. Iowa 1971).

This regulation shall not apply to a boarding student at a private school, or to a student who is forced to change residence or guardianship due to the dissolution of her home by death, separation or divorce of parents. If a student has been living with a family for a period of 18 academic weeks or longer it shall be assumed for athletic purposes that the head of the family is the student's guardian.

All such cases must be submitted to the Executive Secretary and the eligibility established before she participates.

No exception is made available for married students living with their lawful spouses.<sup>4</sup>

The plaintiff alleged that her right to due process had been violated because there was no procedure available whereby she could challenge the bylaws stated above.

Although the plaintiff was excluded from girls' varsity athletics, she did actively participate in other school activities. She was even required to participate in intramural athletics and in physical education classes. The fact that she was married and a mother did not necessitate her being segregated from her classmates.

The plaintiff contended that the rules in question were discriminatory since they did not also apply to male students. It was further stated that there were no restrictions for those unmarried students who used contraceptive devices or those that became pregnant and secured an abortion.<sup>5</sup>

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<sup>4</sup>Ibid., p. 6.      <sup>5</sup>Ibid., p. 9.



It was indicated by the plaintiff that her only chance of continuing her education in college was to secure a scholarship based on her basketball ability. She stated that the colleges with which she had been in contact would consider her for such a scholarship, but only if she participated on her varsity team.<sup>6</sup>

In its defense the defendants denied many of the plaintiff's allegations. However, the defendants' main contention was that the plaintiff had not been deprived of any right since participation in athletic events was considered extracurricular and not essential to her education.

The court ruled in favor of the plaintiff by declaring the previously mentioned association bylaws null and void.

Reed v. Nebraska School Activities Association (1972)

Golf

Fourteenth Amendment, 42 U.S.C. 1983 and U.S.C. 1343

Court granted relief to the plaintiff

This case is similar to Brenden v. Minnesota State School League in that it has been used as a reference for several other sex discrimination complaints. The action in

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<sup>6</sup>Ibid.

the case challenged the State Association's practice of providing public school golf for boys, while offering no program for girls and prohibiting girls from participating with or against boys.

The plaintiff, Debbie Reed, first appealed to the school guidance counselor concerning her desire to try out for the boys' golf team. After consultation with the counselor and the school's athletic director, it was determined that the following rule of the Nebraska School Activities Association would prohibit Ms. Reed's participation:

Girls and boys may not compete on the same athletic team, and girls and boys may not compete against each other.<sup>7</sup>

By allowing a girl to play on the boys' golf team, the rules of the Association would bar the boys' team of Norfolk High School and the boys' teams of other districts that are members of the Nebraska School Activities Association from playing each other.

One of the first questions to be considered was whether the State Association's actions would be under color of state law. Introduced as evidence was the Nebraska

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<sup>7</sup>Brief for Plaintiff, p. 2, Reed v. Nebraska School Activities Association, 341 F.Supp. 258 (D. Neb. 1972).

School Activities Association Yearbook, which included the Association's constitution, bylaws, and activities. The Court ruled that the law was applicable and presented the following quote from the yearbook as evidence:

The program of activities for the schools is recommended by the State Board of Education through the Commissioner of Education . . . but the rules . . . governing interscholastic competition . . . are made by the member schools . . . . The schools are the base of the entire organization and are represented by the . . . Superintendents, Principals and Activity Directors. These people attend the . . . District Activity Meetings held in conjunction with the Teachers' Conventions in October . . . . At these meetings they have an opportunity to . . . make recommendations for consideration by the Representative Assembly. Also at these meetings are elected . . . Delegates to the Representative Assembly.<sup>8</sup>

When considering the merits of the case, the controversy that is so familiar to sex discrimination cases in athletics--whether athletics is a privilege or a right--was examined. The defendants justified the Association rule denying girls the right to play golf on the boys' team since playing golf, unlike education, is a privilege and not a right. The Court's response was that the issue was not whether Debbie Reed had a "right" to play golf; the issue was whether she can be treated differently from boys in an

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<sup>8</sup>Ibid., p. 3.

activity provided by the state. Her right is not the right to play golf. Her right is the right to be treated the same as boys unless there is some rational basis for her being treated in a different manner.<sup>9</sup>

In summation, the Court reported that Debbie Reed was seeking the right to receive instruction offered by the school coaching staff and at the same time have the opportunity to experience local and regional competition. The defendants' argument that girls were free to play golf elsewhere was not well received by the Courts. The fact that an interscholastic golf program was developed and funded for boys was an indication that the defendants considered it a benefit to the male participants. Would female participants not also benefit with the same opportunity? The Court ruled that the state association was enjoined from excluding Debbie Reed because of her sex.

Morris v. Michigan State Board of Education (1972)

Tennis

Fourteenth Amendment, 42 U.S.C. Section 1983,  
28 U.S.C. Section 1343, 28 U.S.C. Sections 2201 and 2202  
Court ruled in favor of plaintiffs

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<sup>9</sup>Ibid., p. 4.

Suit was brought by Cynthia Morris and Emily Barrett, female students at Ann Arbor Huron High School, requesting that injunctive relief be granted from the rules that prevented them from participating in interscholastic tennis matches solely because of their sex. Further relief was requested from the regulation which caused Ann Arbor Huron High School to forfeit interscholastic tennis matches because of its use of the said plaintiffs on the tennis team. The specific rule challenged was as follows:

Girls are not to engage in interscholastic contests when part or all the membership of one or both of the competing teams is composed of boys.<sup>10</sup>

The plaintiffs requested that all noncontact sports be open to both sexes and participants be selected on a basis of equality and individual merit.

The school which the plaintiffs attended made no provision for girls' interscholastic tennis. Therefore, they appealed to the Ann Arbor Board of Education to permit them the opportunity to try out for the varsity team. The Board of Education investigated the situation and found that the Michigan High School Athletic Association did indeed

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<sup>10</sup>Brief for Plaintiff, p. 2, Morris v. Michigan Board of Education 472 F. 2d 1207 (S. D. Mich. 1973).

prohibit girls from competing with boys on interscholastic teams. The reaction of the school board was that this was unfair and denied girls their constitutional rights; therefore, they voted to allow girls to play on all varsity teams in noncontact sports on the basis of ability only.

The plaintiffs took advantage of this opportunity and tried out for and made the starting team as a number two doubles team. However, when they were listed in the starting lineup for the first varsity contest, they were informed that the match must be forfeited since the State Association rules did not permit girls on boys' teams.

Suit was filed against the State Association and the plaintiffs cited as their major argument the results of the previously discussed case of Reed v. The Nebraska School Activities Association.

The defendants requested that the suit be dismissed for the following reasons:

1. The Federal District Court lacks jurisdiction of the subject matter herein involved.
2. The Complaint fails to allege the deprivation of a right guaranteed by the Fourteenth Amendment to the Constitution and thus fails to state a claim upon which relief may be granted.
3. The Complaint fails to allege any act on the part of these defendants which deprives the plaintiff of Equal Protection of the Laws and thus fails to state a claim upon which relief may be granted.

4. The plaintiffs have failed to join a necessary and indispensable party and therefore this Complaint must be dismissed.

5. Plaintiffs' Complaint should be dismissed because the relief demanded is unconstitutionally discriminatory.

6. That plaintiffs have failed to exhaust their local administrative remedies and therefore plaintiffs' Complaint is untimely.<sup>11</sup>

After hearing arguments and requests from both the plaintiffs and defendants the Court ruled in favor of the plaintiffs and informed the defendants they were enjoined from:

1. Preventing or obstructing in any way the individual plaintiffs or any other girls in the State of Michigan from participating fully in varsity interscholastic athletic contests because of their sex.

2. Enforcing or promulgating any rule, directive, regulation, custom or usage, including Rule #5 of the Girls' Athletic Directives of the Michigan High School Athletic Association, that bars or limits the individual plaintiffs or any other girls in the State of Michigan from fully participating on the basis of individual merit with male students in interscholastic athletic contests, because of their sex.

3. Disciplining, imposing sanctions upon, or in any way penalizing any school, school employee, coach, team or individual student because of his, its or their participation with or against girls in interscholastic athletics.<sup>12</sup>

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<sup>11</sup>Ibid., p. 3.

<sup>12</sup>Ibid., p. 2.

Haas v. South Bend Community School  
Corporation and Indiana High School  
Athletic Association (1972)

Golf

Fourteenth Amendment, 42 U.S.C. Section 1983

On appeal ruled in favor of plaintiff

Johnell Haas was a female student who desired to play on her high school golf team. Since no such program existed for girls, she requested permission to try out for the boys' team. Although she had been playing golf for several years she was unable to qualify for the boys' varsity team. The procedure to determine team membership was to provide challenge matches and Ms. Haas failed to defeat those she challenged. However, she pursued her desire to compete and won a place on the B team by defeating the number three man.

The plaintiff's victory was brief. Upon winning a place on the school's B team, she was informed that she was ineligible to participate in team competition due to the State High School Athletic Association rule prohibiting boys and girls enrolled in member schools from competing on the same team or against each other. At this point Ms. Haas turned to the courts for relief.



The case was tried in the state circuit court where the plaintiff requested an injunction against the school which she attended and the Indiana High School Athletic Association. The request for an injunction was denied. However, the case was appealed to the Supreme Court of Indiana which ruled in favor of the plaintiff.

As has been the practice in several related cases, an abundance of evidence was introduced to support the physiological differences between males and females and hence justify the separation of the sexes. The Supreme Court pointed out, however, that a rule even though it appeared nondiscriminatory, could be struck down as a denial of equal protection if it is unreasonably discriminatory in its operation.<sup>13</sup>

Other arguments presented by the defendants closely resemble those that have been used to contest the implications of Title IX. The defense argued that if girls were permitted to participate in athletic competition with boys in noncontact sports, the costs of administering such programs

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<sup>13</sup>Patricia L. Geadelmann and others, Equality in Sport for Women (Washington: AAHEP Publications, 1977), p. 79.

would increase. The court countered by pointing out that including girls would not necessarily expand existing programs. The size of the teams would remain the same and no additional equipment would be required. Even if there were a slight increase in cost it should be emphasized that this could not be considered a justifiable reason for depriving approximately one-half of all the high school students the opportunity to compete in interscholastic athletics.<sup>14</sup>

A second argument was the need to provide protection for the female participants. The defendants contended that since males were physically superior they would dominate any activities that were coed. In addition, if girls could try out for boys' teams then the reverse could be true, thereby creating a situation where boys would dominate both programs. The court answered as follows:

It is unnecessary to sound the fire alarm until the fire has started . . . . We are here only concerned with its application . . . . At the present time few, if any, programs are in operation which need such protection. Until girls' programs comparable to those established for boys exist, the rule cannot be justified on these grounds.<sup>15</sup>

The court further questioned the evidence presented by the defendant claiming male superiority:

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<sup>14</sup>Ibid.      <sup>15</sup>Ibid.

No trial court investigation into the relative athletic abilities of men and women could be complete merely upon a demonstration that male track and field champions have historically bettered their female counterparts in the record books. Such evidence cannot support a conclusion that the male sex is athletically superior. An objective observer could not determine which of two armies is superior merely by examining the strongest and bravest soldier in each. For constitutional purposes, such an investigation would necessarily focus on the causes of any differential in the relative performances of male and female athletes.<sup>16</sup>

Darrin v. H. D. Gould, Superintendent of Wishkah Valley School District, et. als. (1973)

Football

Fourteenth Amendment, 42 U.S.C. Section 1983  
State ERA Constitution Article 31, Number 1

Superior Court ruled in favor of defendants.  
On appeal the State Supreme Court reversed trial court's decision.

The findings in this case produced one of the most controversial decisions in sex discrimination litigation. Action was brought by two sisters, Delores and Carol Darrin, who desired to play interscholastic tackle football on their high school team. They were granted permission to participate by both the school superintendent and the football coach. However, a regulation of the Washington Interscholastic Activities Association prohibited girls from interscholastic contact football on existing boys' teams.

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<sup>16</sup>Ibid., p. 80.

The fact that the football coach was receptive to allowing the girls on the team no doubt raised some questions. However, this was explained, at least in part, by the girls' physical characteristics. Carol was 16 years of age, five feet six inches tall and weighed 170 pounds. Delores was 14, five feet nine inches tall and weighed 212 pounds. Both girls complied with all team requirements in respect to physical examinations, insurance, and necessary number of practice sessions. During these practice sessions neither girl suffered any significant injury. The coach indicated that as a result of the girls' performances they would be allowed to play in interscholastic contests were it not for the State Association ruling. It should be noted that due to its size, the high school in question was not large enough to field an eleven-man football team; therefore, it used the eight-man version.

In presenting their arguments, the defendants quite naturally relied on the physiological difference between teenage boys and girls to justify its exclusion of girls. Medical doctors, coaches and school administrators all testified to the inability of the average girl or the majority of girls to compete with the average boy or majority of boys. In addition to the smaller size, one doctor

indicated that girls also have much weaker knees than boys, thereby making them more susceptible to injury.

The defendants pointed out that allowing girls to participate in boys' competitive athletics would provide boys with the same opportunity to try out for previously all-girls' teams. This would result in a male dominated program since boys on the average are larger and stronger than the average girl. The case presented by the defendants was ample to convince the trial court to rule in their favor as the court specifically found:

The majority of girls are, due to their inability to run as fast, jump as high or far, hit as hard or absorb as much physical impact as boys, unable to compete with boys in contact football, and the potential risk of injury is great. The average girl is smaller in stature, has lighter bone structure and less muscle mass; girls of the same weight will have less muscle per body weight than boys; girls' knees would be more subject to injury due to differences in their structure and strength as compared to boys, knee injuries being one of the most common football injuries . . . .<sup>17</sup>

On appeal to the State Supreme Court, the decision of the trial court was reversed. In considering the arguments presented by the defendants, the Supreme Court took a much different view. The court stated, "There is no

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<sup>17</sup>Brief for Defendant, p. 2, Darrin v. H. D. Gould, Superintendent of Wishkak Valley School District, No. 43276 (Super. Ct. Wash. 1975).

finding that what may be true for the majority of girls is true in the case of the Darrin girls or girls like them."<sup>18</sup> The court also pointed out that boys participating in contact football run the risk of injury. This is not used as reason to deny them the right to participate. The size of a boy, whether he be large or small, does not disqualify him from participation.

The court indicated the possibility of disrupting the girls' athletic programs if girls were permitted to play on boys' football teams was based on opinion testimony only. There was no evidence presented that this had taken place elsewhere.

In conclusion the court ruled in favor of the plaintiffs because of the existing State Equal Rights Amendment adopted in 1972: "Equality of rights and responsibility under the law shall not be denied or abridged on account of sex."<sup>19</sup>

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<sup>18</sup>Geadelmann, op. cit., p. 82.

<sup>19</sup>Ibid., p. 75.

Brenden v. Independent School District and  
the Minnesota State High School League (1973)

Tennis, Cross-Country Skiing, and  
Cross-Country Running

Fourteenth Amendment, 42 U.S.C. Section 1983

District Court granted relief and this decision was  
upheld by Court of Appeals

This case was one of the first cases to allege sex discrimination in athletics. It has special significance since the female plaintiffs won their right to participate; as a result, it has been referred to as a landmark case, and has been cited in similar cases since 1972.

The case involved Peggy Brenden and Toni St. Pierre, female high school students in Minnesota public high schools. Brenden attended the St. Cloud Technical High School in Independent School District 742, and St. Pierre attended Eisenhower High School in Independent School 274. The plaintiffs requested that they be permitted to participate in noncontact sports--Brenden in tennis, and St. Pierre in cross-country skiing and cross-country running. There were no programs at their schools which included these sports for females; therefore, they desired the opportunity to qualify for positions on the teams that had been established for males. However, they were precluded from doing so on the basis of the following rule:

Girls shall be prohibited from participation on the boys' team or as a member of the girls' team playing the boys' team.

The girls' team shall not accept male members.<sup>20</sup>

The complaint charged that this rule discriminates against females in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

During the trial it was demonstrated that both girls were excellent athletes in their respective sports and were capable of competing with males. Toni St. Pierre had participated in numerous Amateur Athletic Union cross-country events, and had skied in United States Ski Association cross-country skiing meets. Peggy Brenden had played in several tennis tournaments and was ranked the number-one eighteen-year-old woman tennis player in the area by the Northwestern Lawn Tennis Association.<sup>21</sup>

Each girl was deprived of varsity competition in her sport. Peggy Brenden's school provided an after-school tennis program for girls. However, it was limited to four

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<sup>20</sup>Brief for Plaintiff, p. 2, Brenden v. Independent School District, 477 F. 2d 1292 (D. Minn. 1973).

<sup>21</sup>"Sex Discrimination in High School Activities," Minnesota Law Review, 57 (1972), p. 349.



one-hour practice sessions during the fall with only informal coaching and no organized meets. The administration in Toni St. Pierre's school indicated that they were willing to establish a cross-country running program for girls, but there was not enough interest among other girls to justify such a program.<sup>22</sup>

In its defense, the High School League contended that the courts had no jurisdiction over their rules and regulations since they were a voluntary organization, not acting under the color of state law. However, the trial court held that:

Although the Minnesota State High School League is a voluntary organization, the original allowance for public high schools to join such an association or organization is authorized pursuant to Minnesota law. (Minn. Stat. Ann. Section 192.12). In addition, the rules governing League members are promulgated pursuant to a procedure which integrally involves the member school districts in the decision-making process. Beyond this, the ultimate enforcement of the rules becomes the responsibility of the member school and the public officials of those schools and school districts. In such a situation, where there is a tremendous public interest in educational functions, and where the public school machinery of the state is so involved in the effectuation and enforcement of rules which bind all public high schools in the state, the Court is left

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<sup>22</sup>Ibid., p. 350.

with no conclusion other than that defendant Minnesota State High School League and the defendant school districts are acting under color of state law.<sup>23</sup>

In providing relief for the plaintiffs, the Court was quite clear in stating its findings. However, it was interesting that the Court also made a point to include in its comments what it considered to be not covered in its ruling. First, it indicated that since neither high school provided teams for females in those sports the plaintiffs desired to participate in, the Court was not faced with the question of whether the schools can fulfill their responsibilities under the Equal Protection Clause by providing separate but equal facilities for females in interscholastic athletics. Second, because the sports in question were not considered contact sports, it was not necessary for the Court to determine if the High School League would be justified in precluding females from competing with males in contact sports.<sup>24</sup>

In evaluating a claim that state action violates the Equal Protection Clause, the Courts indicate that three criteria must be considered: (1) the character of the classification in question; (2) the individual interests

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<sup>23</sup>Brenden, op. cit., p. 4.

<sup>24</sup>Ibid., p. 4.

affected by the classification; and (3) the governmental interests asserted by the classification.<sup>25</sup>

There is no longer any doubt that sex-based classifications are subject to scrutiny by the Courts under the Equal Protection Clause and will be struck down when they provide dissimilar treatment for men and women who are similarly situated with respect to the object of the classification. It was pointed out in this case that it was not necessary for the Court to determine whether classifications based on sex are suspect, and thus can be justified only by compelling state interest because the High School League's rule cannot be justified even under the standard applied to test nonsuspect classifications.<sup>26</sup>

In dealing with the second criterion, the plaintiff's interest in athletics, the High School League stated that relief should not be granted because participation in interscholastic athletics is a privilege and not a right. The Court disagreed. The Court indicated that the question in this case was not whether the plaintiffs have an absolute

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<sup>25</sup>Jane Avery, "Validity Under Federal Law, of Sex Discrimination in Athletics," American Law Reporter, 23 Fed 649 (1973), 654.

<sup>26</sup>*Ibid.*, p. 656.

right to participate in athletics, but whether the plaintiffs can be denied the benefits of activities provided by the state for male students.<sup>27</sup>

The third criterion pertains to the High School League's interest. Even though two fully qualified students were not allowed to participate as a result of their sex, the league considered its rule justified in order to provide for equitable competition. They stated that physiological differences between males and females make it impossible for the latter to equitably compete with males in athletic competition.<sup>28</sup> The Court replied by stating:

We recognize that because sex-based classifications may be based on outdated stereotypes of the nature of males and females, courts must be particularly demanding in ascertaining whether the state has demonstrated a substantial rational basis for the classification.<sup>29</sup>

The Court further stated:

We believe that in view of the nature of the classification and the important interests of the plaintiffs involved, the High School League has failed to demonstrate that the sex-based classification fairly and substantially promotes the purposes of the League's rules.<sup>30</sup>

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<sup>27</sup>Brenden, op. cit., p. 8.

<sup>28</sup>Avery, loc. cit.

<sup>29</sup>Brenden, op. cit., p. 8.

<sup>30</sup>Ibid.

It should be noted, that although the plaintiffs did not seek relief under Title IX of the Education Amendments of 1972, the Court did refer to it when making the point that discrimination in high school interscholastic athletics constitutes discrimination in education.

In summarizing its findings, the Court indicated that the High School League had failed to demonstrate a sufficient rational basis for its conclusion that women are not capable of competing with men in noncontact sports. The Court emphasized that the League made no effort to introduce evidence comparing males and females in such areas as coordination, concentration, agility and timing, each of which is extremely important in achieving success. In response to the expert opinions provided by the High School League to the effect that females are physically incapable of competing with males in interscholastic athletics, the Court pointed out that such opinions were based on subjective conclusions by individuals who were not familiar with mixed competition. Reference was also made to the New York study, which provided for mixed competition in noncontact sports. The findings in this indicated that there were no medical reasons for

prohibiting girls from participating on boys' teams in non-contact sports.<sup>31</sup>

The High School League's contention that the invalidation of its rule would have an adverse impact of development of future female sports was not accepted by the Court. The argument was considered too speculative, particularly in view of the recent statement of the Minnesota State Board of Education calling on its local boards to provide equal educational opportunities for females.<sup>32</sup>

The Court stated:

This argument certainly cannot be used to deprive Brenden and St. Pierre of their rights to equal protection of the law. With respect to these two females, the record is clear. Their schools have failed to provide them with opportunities for interscholastic competition equal to those provided for males with similar athletic qualifications. Accordingly they are entitled to relief.<sup>33</sup>

In its concluding statement the Court offered the following:

In summary, the Court is confronted with a situation where two high school girls wish to take part in certain interscholastic boys' athletics; where it is shown that the girls could compete effectively on these teams; and where there are no alternative competitive programs sponsored by their schools which would provide an equal opportunity for

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<sup>31</sup>Avery, op. cit., p. 674.

<sup>32</sup>Ibid., p. 663.      <sup>33</sup>Ibid.

competition for these girls; and where the rule, in its application, becomes unreasonable in light of the objectives which the rule seeks to promote. Brought to its base, then, Peggy Brenden and Toni St. Pierre are being prevented from participating on the boys' interscholastic teams in tennis, cross-country, and cross-country skiing solely on the basis of the fact of sex and sex alone. The Court is thus of the opinion that in these factual circumstances, the application of the League rules to Peggy Brenden and Toni St. Pierre is arbitrary and unreasonable, in violation of the equal protection clause of the fourteenth amendment. For this reason, the application of the rule to these girls cannot stand. To implement this decision, it is ordered.

1. That Peggy Brenden and Toni St. Pierre be declared eligible to compete on their respective teams at their respective high schools.

2. That the Minnesota State High School League is enjoined from imposing any sanctions upon either St. Cloud Technical High School or Hopkins Eisenhower High School for compliance with this Court order, and that no sanctions are to be imposed on any other public high schools for engaging in interscholastic competition with St. Cloud Technical High School and Hopkins Eisenhower High School.<sup>34</sup>

Gilpin v. Kansas State High School  
Activities Association (1973)

Cross-Country

Fourteenth Amendment, 28 U.S.C. 1343 and  
42 U.S.C. 1983

Court ruled in favor of plaintiff

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<sup>34</sup>Ibid.

This is a rather unique case in that a local board of education adopted a policy permitting mixed competition in certain noncontact sports only to have mixed participation denied by a rule of the Kansas State High School Activities Association. The rule provided that:

Boys and girls shall not be members of the same athletic teams in interscholastic contests.<sup>35</sup>

After the school board policy was adopted, Tammie Gilpin, a junior at Wichita High School Southeast, requested and was granted permission to participate on the school's all-male cross-country team. Prior to the first meet Gilpin was informed that she was not eligible because of the rule stated above. In turn Ms. Gilpin filed suit seeking relief from the State Association's rule in question.

The facts presented in the initial stages of the proceedings were simple and direct. Tammie Gilpin was a female student who possessed a desire to participate in cross-country running. There was no cross-country running program for females. Given the opportunity to try out for the boys' team, she immediately proved herself capable of

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<sup>35</sup>Brief for Plaintiff, p. 2, Gilpin v. Kansas State High School Activities Association, 377 F. Supp. 1207 (D. Kan. 1974).



competing with the male members, only to be denied participation because of her sex.

Since the basis of the suit was the Equal Protection Clause of the Fourteenth Amendment, the Court indicated that it was obliged to consider three basic criteria:

(1) The character of the classification in question; (2) the individual interests affected by the classification; and (3) the governmental interests asserted in support of the classification.<sup>36</sup>

As indicated previously, the only reason that the plaintiff was denied equal participation was her sex. The Kansas State High School Association countered by contending that regardless of the nature of the classification, the plaintiff had not alleged the deprivation of any right protected under the Federal Constitution. The Court agreed that the plaintiff had not alleged that she had an absolute right to participate, and the Court would not recognize such a right. However, the plaintiff did maintain that she had a right not to be automatically dropped from interscholastic competition because of her sex, rather than her athletic ability.<sup>37</sup>

The Association presented several other arguments on its behalf. Allowing girls to participate with boys

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<sup>36</sup>Ibid., p. 4.      <sup>37</sup>Ibid., p. 7.

could eventually destroy girls' programs. The Court responded by pointing out that this was not a class action suit. Also the Association relied on the physical and emotional comparison of girls and boys as well as the need to provide equitable competition among the sexes. The Court acknowledged that both of these were legitimate concerns. However, it must be remembered that Southeast High School provided only one cross-country team, which was open to both girls and boys. The Association's rule not only would prevent Tammie Gilpin from participating on the boys' cross-country team, but would also completely bar her from all available competition. The Court's reaction to the presented facts were that relief was clearly appropriate.

Bell v. Illinois High School Association (1974)

Cross-Country

Fourteenth Amendment, 42 U.S.C. Section 1983

Ruled in favor of plaintiff

This case is extremely similar to an earlier case, Allen v. California Interscholastic Federation, in that the female plaintiff requested and was granted permission to participate on the boys' high school cross-country team, only to be ruled ineligible as a result of a State Association rule. The major differences in the cases were in the

decisions rendered. In this case the plaintiffs were granted relief, whereas in the Allen decision relief was denied.

After participation as a member of her junior high school cross-country team in an interscholastic meet, the plaintiff was told that she would no longer be allowed to compete because of the following rule:

Participation of boys and girls in athletic activities: No school belonging to this association shall permit boys and girls to participate with or against members of the opposite sex in the same interscholastic athletic activity.<sup>38</sup>

The local school board had adopted a policy that allowed mixed participation to qualified students in intramural and interscholastic activities of a noncontact nature, but deferred its implementation as a result of the State Association ruling.

The Illinois High School Association attempted to justify its rule, prohibiting girls and boys from competing with or against members of the opposite sex, by presenting the following three objectives: (1) to improve the availability of high school interscholastic sports for girls,

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<sup>38</sup>Brief for Plaintiff, p. 3, Bell v. Illinois High School Association, No. 73-C-151 (6th D. Cir. Ct. Ill. 1974).

(2) to protect girls from injury and (3) avoid administrative difficulties and additional expense. The basic premise of the State Association was that its rule was reasonable because of the differences between the sexes and the fact that girls generally do not have the athletic capabilities to compete against boys on an equal basis.<sup>39</sup>

The plaintiffs agreed that physical differences were sufficient bases to deny the playing of contact sports between the sexes, and they also agreed that separate teams may be beneficial to girls. However, since their school was financially unable to field two separate teams, the rule in question denied any opportunity for girls to participate. The plaintiffs also contended that even with physical differences some girls are able to compete effectively against boys and, in any event, they should be given the opportunity.

The court ruled that girl athletes could compete with boys in noncontact sports when there were no girls' teams in the same sport. The decision allowed the plaintiff to run cross-country for her high school team. The judge found a number of the State Association's rules unconstitutional, including the stipulation that a girls' sport must

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<sup>39</sup>Ibid., p. 6.

be part of an intramural program before interscholastic teams can compete in it. He ruled that restrictions on the prices of girls' uniforms, trophies or awards were unconstitutional, as well as the requirement that girls must be coached by women.

Commonwealth of Pennsylvania v.  
Pennsylvania Interscholastic Athletic  
Association (1975)

All Sports

Fourteenth Amendment, 42 U.S.C. Section 1983  
Article I, Section 28 of the Pennsylvania  
Constitution (Equal Rights Amendment)

Ruled in favor of plaintiffs

This was the only case researched where the plaintiff turned out to be the state. The Commonwealth of Pennsylvania, acting through its Attorney General, initiated a suit against the Pennsylvania Interscholastic Athletic Association in November, 1973. The complaint challenged the following Association rule: "Girls shall not compete or practice against boys in any athletic contest." It was alleged that female student athletes did not have the same opportunities which were available to males to participate in interscholastic athletics. It was the contention of the Commonwealth that this was in violation of the state's Equal

Rights Amendment and the Fourteenth Amendment to the United States Constitution.

The court was quick to inform the defendant that its rule, prohibiting girls from participating with boys, was unconstitutional in light of the state ERA. This provision was as follows:

Equality of rights under the law shall not be denied or abridged in the Commonwealth of Pennsylvania because of the sex of an individual.<sup>40</sup>

The Pennsylvania Interscholastic Athletic Association attempted to justify its rule on the basis that since males are generally more highly skilled, girls would be at a disadvantage in mixed competition. Opportunities to participate and excel would be greater for girls if they were competitive with members of their own sex. The court stated that the argument that boys are more skilled or that girls were weaker and more injury-prone was not a justification for the Association rule in light of the ERA. It was pointed out that a girl could be excluded from competition if she were too weak, injury-prone or unskilled. However, she could not be excluded solely because of her sex. The

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<sup>40</sup>Brief for Plaintiff, p. 2, Commonwealth of PA. v. Pennsylvania Interscholastic Athletic Association, No. 1526 C.D. (Cmwlth. Ct. Pa. 1975).

court provided the following statement to emphasize the comprehensiveness of the state ERA:

The thrust of the Equal Rights Amendment is to insure equality of rights under the law and to eliminate sex as a basis for distinction. The sex of citizens of this Commonwealth is no longer a permissible factor in the determination of their legal rights and legal responsibilities. The law will not impose different benefits or different burdens upon the members of a society based on the fact that they may be man or woman.<sup>41</sup>

In addition to determining that the State Athletic Association rule was unconstitutional, the court went a step further by including the following:

Although the Commonwealth in its complaint seeks no relief from discrimination against female athletes who may wish to participate in football and wrestling, it is apparent that there can be no valid reason for excepting those two sports from our order in this case.<sup>42</sup>

Although the findings of the court were concluded with a limited amount of debate, a dissenting opinion was offered by the presiding judge. He indicated that not enough consideration was given to prior decisions of the Supreme Court, and that there could be extenuating circumstances and conditions that could justify distinction between the sexes. He appeared quite concerned with the inclusion of the "contact sports" of football and wrestling

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<sup>41</sup>Ibid., p. 3.      <sup>42</sup>Ibid., p. 4.

in the final ruling. He concluded by stating, "In deciding this case on a motion for summary judgment, the majority, in my view, has acted too soon and gone too far. I would deny plaintiff's motion for summary judgment."<sup>43</sup>

Mora v. St. Vrain Valley School District (1975)

Basketball

Fourteenth Amendment, 42 U.S.C. Section 1983  
and Article II, Section 29 of the Constitution  
of Colorado

District Court granted temporary restraining  
order for plaintiff

This was one of the few cases involving a junior high school student. Regina Mora was a fourteen-year-old student who attended Northeast Junior High School in the St. Vrain Valley School District in Colorado. At the beginning of the boys' basketball season, which started in early November, she was invited by the basketball coach to try out for the team. She began practicing with the boys' team with the approval of both the coach and the school principal. After several days of practice, a directive was issued from the office of the Supervisor of Health, Physical Education and Athletics of the school district

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<sup>43</sup>Ibid., p. 5.



informing Ms. Mora that she could not play or practice with any boys' team of the school. The reason given for this directive was the fact that Ms. Mora was female. At this point, she became manager of the team.

Ms. Mora filed a complaint seeking temporary and permanent injunctive relief in an attempt to be reinstated on the boys' team. In addition to seeking relief under the Fourteenth Amendment, the Equal Rights Amendment, passed in Colorado in 1972, was also used. Article II, Section 29 of the Constitution of Colorado states:

Equality of the Sexes. Equality of rights under the law shall not be denied or abridged by the State of Colorado or any of its political subdivisions on account of sex.<sup>44</sup>

The court indicated that it would not rule upon the applicability of the Fourteenth Amendment until a full trial is held of the merits of the case. However, their decision would be based on the state's Equal Rights Amendment.

The first question to which the court addressed itself was whether the school district was a political subdivision of the state of Colorado. It was established very

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<sup>44</sup>Brief for Plaintiff, p. 2, Mora v. St. Vrain Valley School District, No. 75-3182-1 (D. Ct. Colo. 1975).

clearly that it was. Next the court found the defendant school district in violation of the Colorado Equal Rights Amendment. This decision was based on the fact that the plaintiff provided expert witnesses that testified that there was no physical reason why the plaintiff could not play on the boys' basketball team. Of greater importance, the school district admitted that participation had been denied because of the plaintiff's sex.

Commenting on the significance of interscholastic athletics the court offered the following:

The defendant school district's interscholastic sports are an integral part of each school's overall education program because they promote an interest in athletics and thereby encourage the students to participate in activities which benefit them physically and mentally. Both boys and girls benefit from participation in athletics. The defendant school district argues that it has a comparable program of interscholastic athletics; including basketball, for girls. However, it is clear that the girls program is of inferior quality when compared with the boys' program as to the number of teams, number of games, inter-school competition, length of season and the like (Exhibit B). The fact that the defendant school district proposes to have identical programs in the near future does not remove or minimize the concrete fact that the boys' and girls' basketball programs, as of this date, are not equivalent. There is no fundamental right to engage in interscholastic sports but once a school district decides to permit and encourage such participation, it is required by the Colorado Equal Rights Amendment

to do so on a basis which does not discriminate in violation of the Constitution.<sup>45</sup>

The court identified two recent decisions in other states (Darrin v. Gould, supra; Commonwealth v. Pennsylvania Interscholastic Athletic Association, supra) that ruled on the constitutionality of regulations prohibiting girls from participating in interscholastic athletics because of their sex. These two states had a State Equal Rights Amendment which prohibited schools from denying qualified students the right to participate in interscholastic athletic competition solely on the ground that the students were girls.

The defendant school district stressed that since a girls' program was available it was not necessary for the plaintiff to be given permission to participate with boys. However, it was pointed out by the court that the girls' program was not offered until February and if the plaintiff possessed the skill to make the boys' team then she would be discriminated against solely because of her sex. In addition, she would be further deprived of the opportunity to develop her individual skills against adequate competition.

In conclusion, the court found that this action was in violation of the Colorado Equal Rights Amendment

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<sup>45</sup>Ibid., p. 3.

prohibiting sexual discrimination and that a temporary restraining order should be granted.

Lavin v. Illinois High School  
Athletic Association (1975)

Basketball

Fourteenth Amendment, 42 U.S.C. Section 1983 and  
28 U.S.C. 1343

Court of Appeals reversed lower court's  
decision and ruled in favor of plaintiff

The complaint presented in this case was broad in scope, in that the plaintiff, Rachel Lavin, a high school senior, filed a class action suit on the grounds that she and her class had been denied participation in interscholastic athletic programs solely because they were female. The complaint came about as a result of the plaintiff's and another female student's not being permitted to join the varsity basketball team.

The procedure for selecting team members was to have "tryouts," then the most highly skilled would be called back for "preliminaries." The varsity team was chosen from those students participating in the "preliminaries." The plaintiffs did try out but were not invited back. According to Ms. Lavin, she "was eligible, ready, willing and able to

participate in high school interscholastic varsity basketball."<sup>46</sup> However, she indicated that the high school coach informed her that he would not and could not ask her back because of the following State Athletic Association rule:

No school belonging to this Association shall permit boys and girls to participate with or against members of the opposite sex in the same interscholastic athletic activity.<sup>47</sup>

At this point the plaintiff requested a preliminary injunction. During the course of the trial, the basketball coach testified that even if the rule in question had not existed, he still would not have invited the two girls back because neither possessed the ability to participate on the school's varsity basketball team.<sup>48</sup> This testimony was sufficient for the district judge to rule in favor of the defendants.

When the case was appealed, the court first considered ruling the case moot because, at this point, the plaintiff had already graduated. However, this was found

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<sup>46</sup>Lavin v. Illinois High School Association, 527 F. Reporter 59 (1975).

<sup>47</sup>Ibid.

<sup>48</sup>Ibid., p. 60.

not to be appropriate since the plaintiff was seeking damages. In reviewing the lower court's decision, the appeals court did not agree that the plaintiff had not been harmed by the rule in question. In reference to the basketball coach's affidavit, the court pointed out that it did not state that his decision not to ask the plaintiff back was made without consideration of the rule or the fact that she was female.<sup>49</sup> More importantly, the plaintiff was not given an opportunity to counter the affidavit. The court further stated that the plaintiff might have desired to cross-examine the coach or present her own affidavits concerning her basketball ability. However, she was not given this opportunity.

In conclusion, the appeals court reversed the judgment of the district court and remanded the case for further proceedings.

Carnes v. Tennessee Secondary School  
Athletic Association (1976)

Baseball

Fourteenth Amendment, 42 U.S.C. Section 1983,  
28 U.S.C. Section 1343 and 20 U.S.C. Section 1681

Ruled in favor of plaintiff

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<sup>49</sup>Ibid., p. 61.

This was the only case reported in which the plaintiff was seeking the right to participate in the sport of baseball. Jo Ann Carnes was an eighteen-year-old female student at Central High School in Wartburg, Tennessee. The school's baseball coach notified the student body that prospective players were invited out for practice sessions. Ms. Carnes was one of thirty-five students trying out for the team. The coach informed the plaintiff that she would be permitted to participate in the baseball program provided that she follow all team rules. This would include having her hair cut, which she did.

Prior to the first game, an official of the Tennessee Secondary School Athletic Association contacted the coach and informed him that Ms. Carnes would not be eligible. The Association followed this with a letter to the school's principal which pointed out that girls were not permitted to participate in baseball since it was a contact sport. The following regulation was presented:

Article II, Section 32 in the TSSAA Handbook entitled "Mixed Competition" states that boys and girls shall not be permitted to participate in interschool athletic games as mixed teams, nor shall boys' teams and girls' teams participate against each other in interschool athletic contests provided that this rule shall not apply to those sports which are not defined as collision sports or which do not

involve physical contact. For purposes of this rule, collision sports and sports involving physical contact shall include, but not be limited to, football, baseball, basketball, and wrestling.<sup>50</sup>

In an effort to justify their rule the defendants offered two reasons: to protect females from exposure to an unreasonable risk of harm; to protect female sports programs from male intrusion.<sup>51</sup>

The court questioned the first justification by indicating that the rule could allow some males, who might be highly prone to injury to play baseball, while at the same time, deny a physically fit female an opportunity to participate.<sup>52</sup> In this case it had been pointed out by the baseball coach that the plaintiff was baseball material, and that he knew of no physical reason why she could not play. She had been active in other sports without serious injury and testified that, if given the opportunity to play, she would be willing to wear a chest protector specially designed for women.<sup>53</sup>

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<sup>50</sup>Carnes v. Tennessee Secondary School Athletic Association, 415 F. Supp. 570 (1976).

<sup>51</sup>Geadelmann, op. cit., p. 83.

<sup>52</sup>Ibid.

<sup>53</sup>Carnes, op. cit., p. 571.



The second justification was questioned since the school provided no baseball program for girls. As a result, the existing rule completely barred the plaintiff from participation unless she was allowed to be a member of the boys' team.<sup>54</sup>

The classification of baseball as a contact sport by the Tennessee Secondary School Athletic Association also was questioned by the court. During the course of the trial the baseball coach testified that the rules of baseball prohibit body-checking and that base-runners are generally tagged with a glove. It was the court's opinion, based on the evidence presented, that it was questionable to classify baseball as a contact sport.<sup>55</sup>

In conclusion, the court ruled that since the plaintiff was a high school senior this would be her only opportunity to play high school baseball; therefore, a preliminary injunction was granted.

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<sup>54</sup>Geadelmann, op. cit., p. 83.

<sup>55</sup>Carnes, op. cit., p. 572.

Hoover v. Board of Education of Jefferson  
County School District and The Colorado  
High School Activities Association (1977)

Soccer

Fourteenth Amendment, 28 U.S.C. Section 1343(3)  
and 28 U.S.C. Section 2201 and 42 U.S.C. Section 1983

Ruled in favor of plaintiff

The plaintiff, Donna Hoover, was a sixteen-year-old girl who requested and was granted permission by the high school soccer coach to try out for the boys' soccer team during the 1976 season. The plaintiff engaged in all required conditioning and skill drills during practice sessions and also participated in several junior varsity games. These were unofficial contests used to provide opportunities for players to improve their skills. The plaintiff was the only female playing in these junior varsity matches.

During the latter part of September, 1976, the school principal informed Ms. Hoover that she could no longer participate in the soccer program because of a ruling by The Colorado High School Activities Association. The rule limits participation in soccer to the male sex. The following justification was presented:

Note: Because inordinate injury risk jeopardizes the health and safety of the female athlete,

participation in this activity is limited to members of the male sex.<sup>56</sup>

The decision to limit soccer to males resulted from recommendations made by a committee of the Colorado Medical Society. This group provided testimony at the trial that allowing mixed-sex play in a contact sport such as soccer could subject female players to a great risk of injury. The committee provided a detailed comparison of the physiological differences which exist between boys and girls. In each instance it was pointed out that the male was better equipped to participate in the game of soccer.

In response to the medical committee's findings the court was quick to point out that the Association had provided no eligibility criteria for participation except sex. This allowed any male, regardless of his size and weight, the opportunity to participate, while the female, regardless of her size, weight, condition or skill was not eligible.

In reaching their findings the court provided a variation in its approach when dealing with the traditional equal protection decisions based on the two-tiered analysis of "strict scrutiny" and "rational relation." They utilized the three elements suggested by J. H. Wilkinson.

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<sup>56</sup>Brief for Plaintiff, p. 2, Hoover v. Board of Education of Jefferson County School District, No. 76 M 1007 (D. Ct. Colo. 1977).

1. The importance of the opportunity being unequally burdened or denied.

The plaintiff was not merely burdened but was completely excluded from the soccer program. The educational programs are the responsibility of the school board and any program that is provided, academic or extracurricular, must be open to all students.

2. The strength of the state interest in denying it.

The defendants justified their exclusionary rule by asserting the state interest in the protection of females from injury. It was accepted that males as a class tend to be stronger and faster. However, evidence also indicated that the range of differences among individuals in both sexes is greater than the average differences between the sexes. It was not possible to support sex classification since no physical criteria were provided to protect the small, weak males from the larger, stronger males.

3. The character of the group whose opportunities are denied.

The court recognized the fact that women and girls constitute the majority of the people in this country, and to deny them equal access to athletics supported by public funds would be discriminatory.

The court's stand of the "separate but equal" doctrine provides additional significance to the case. It was conceded by the court that separate soccer teams for males and females would meet the constitutional requirement of equal opportunity if the teams were provided comparable programs.<sup>57</sup>

In conclusion, the court informed the defendants that they had a choice: They could discontinue soccer as an interscholastic sport; they could find separate teams for males and females, with equal funding and comparable personnel; or they could have coed soccer. Any of these actions would satisfy the court. What the defendants could not do was to continue interscholastic soccer for boys only.<sup>58</sup>

Gregorio v. The Board of Education  
of Asbury Park, et als New Jersey (1971)

Tennis

Fourteenth Amendment, 42 U.S.C. Section 1983

In favor of defendants

The plaintiff, Renee Gregorio, was a junior at Asbury Park High School and was interested in competing in interscholastic tennis. Her background included tournament play

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<sup>57</sup>Ibid., pp. 5-6.      <sup>58</sup>Ibid., p. 8.

with the New Jersey Tennis Association as well as matches with several top-ranking members of the Asbury Park High School Tennis Team.

There was no provision made for either girls' intramural or interscholastic tennis at Asbury Park High School. Ms. Gregorio approached the boys' tennis coach to seek permission to participate on the boys' squad. She was informed that he would like to have her compete; however, it would be necessary to gain administrative approval. Next she received word from the principal of the high school that the New Jersey State Athletic Association prohibited her participation as one of its rules provides:

No girl may be permitted to participate in interscholastic contests with boys.<sup>59</sup>

A complaint was filed with the court seeking relief from the State Association rule. One charge made by the plaintiff that had not appeared in previous cases was that denying her the opportunity to compete could deprive her of a possible athletic scholarship for tennis. The plaintiff's

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<sup>59</sup>Brief for Plaintiff, p. 4, Gregorio v. The Board of Education of Asbury Park, C-1988-69 (Super. Ct. N. J. 1971).

mother further contended that since she was a widow, it would be necessary for her daughter to receive financial assistance. Her chances for getting a college scholarship would be enhanced by participation in high school varsity tennis.

The defendants argued that there was a rational basis for separating girls and boys in athletic competition. It was essential to keep the level of competition relatively equal and this would not be possible with mixed teams. The psychological well-being of girls could be jeopardized. Another defense presented was that it would be necessary to use male trainers with any girls that participated, and this could present problems.

In considering the arguments presented, the court indicated that it was sympathetic with the plaintiff. However, there seemed to be just cause for separation of the sexes; therefore, the preliminary injunction was not issued. The plaintiffs did appeal but the appeal court did not find this decision to be unreasonable or arbitrary.

Hollander v. Connecticut  
Interscholastic Conference Inc. (1971)

Cross-Country

Fourteenth Amendment, 42 U.S.C. Section 1983

Injunction denied. Ruled in favor of defendants

This was one of the earliest sex discrimination cases to reach the courts, and the decision rendered reflects the mood of the court for this time period. The complaint initially reached the court in September, 1970, and the final ruling was concluded in March, 1971.

The plaintiff desired to be a member of the boys' cross-country and track teams since none were provided for girls. The defendant's first defense was that the plaintiff had failed to follow the proper appeal procedure by applying to the Eligibility Committee of The Connecticut Interscholastic Athletic Conference. In response, the judge directed school officials to process an application for the plaintiff and further to allow the plaintiff to practice with her school's cross-country team but not to engage in interscholastic competition.

Following the completion of the application, the request to participate was again denied and the complaint returned to the court. To support its case the defendant



Athletic Association presented a letter from the Commissioner of Education of the state of Connecticut which stated that it would not be in the best interest for girls or boys to participate in mixed competition. Of even greater significance the letter further stated:

Dr. Ruth V. Byler, the State Department of Education specialist in girls' physical education, concurs and is firmly opposed to the introduction of such practices for Connecticut schools.<sup>60</sup>

Support was even drawn from the General Assembly of Connecticut, which was considered to have the reputation for enacting statutes to safeguard women where aspects of physical involvement were concerned.

The defendants also emphasized the fact that having girls on boys' teams could result in the boys' losing their incentive to win, because they certainly would not experience a thrill in defeating girls. This defense also included a quote that has since appeared numerous times in the literature relative to girls' athletics:

Athletic competition builds character in our boys. We do not need this kind of character in our girls, the women of tomorrow.<sup>61</sup>

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<sup>60</sup>Brief for Plaintiff, p. 6, *Hollander v. Connecticut Interscholastic Conference*, No. 1249 27 (Super. Ct. New Haven County, Conn. 1971).

<sup>61</sup>*Ibid.*, p. 9.

The preceding quote was made by the presiding judge; therefore, it is not difficult to understand why the ruling was in favor of the defendant.

Harris v. Illinois High School Association (1972)

Tennis

Fourteenth Amendment, 42 U.S.C. Section 1983 and  
28 U.S.C. Sections 1343(3) and (4)

Court upheld Association rules

Jean Harris, a seventeen-year-old female student charged that she was being precluded from participation on the school's varsity tennis team solely because of her sex. The school provided no tennis program for girls. The Court disagreed with the plaintiff.

It was the contention of the plaintiff that denial of participation on the tennis team was a violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. The Court was quick to point out that participation in athletics is not a right guaranteed by the Fourteenth Amendment. The Court referred to Mitchell v. Louisiana High School Athletic Association to emphasize the limitations of the Fourteenth Amendment:

For better or worse, the due process clause of the Fourteenth Amendment does not insulate a citizen from every injury at the hands of the State. "Only

those rights, privileges and immunities that are secured by the Constitution of the United States, or some Act of Congress are within the protection of the federal courts. Rights, privileges and immunities not derived from the federal Constitution or secured thereby are left exclusively to the protection of the states." The privilege of participating in interscholastic athletics must be deemed to fall in the latter category and outside the protection of due process.<sup>62</sup>

The Court considered classification as the main issue in the case, thereby raising the question if the classification were arbitrary or capricious, thus denying a fundamental right. Again the Mitchell case was cited:

A claim denial of equal protection by state action does arise under the Constitution . . . . Appellees alleged that the students, as a part of the class of those students who repeated lower grades for reasons other than failure, had been the victims of an invidious discrimination. Upon examination, it's "very plain" that this contention is without merit. The classification made by the eligibility regulation is neither inherently suspect, nor an encroachment on a fundamental right. On the other hand, it is grounded in, and reasonably related to a legitimate state interest.<sup>63</sup>

The Court considered dividing athletic competition between male and female participants as being a rational classification. It was pointed out that the Association

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<sup>62</sup>Brief for Plaintiff, p. 2, Harris v. Illinois High School Association, S-Civ. 72-25 (S. D. Ill. 1972).

<sup>63</sup>Ibid.

bylaws did not prohibit girls' participation in tennis, only in mixed competition. Reference was also made to the fact that the rules in question were those of a voluntary membership Association. It was interesting to note that the Court made no mention of the fact that there was not a tennis program for girls.

It should be noted that each of three similar cases that immediately followed the Harris decision (within the same year) ruled in favor of the plaintiff. These cases were as follows:

Brenden v. Indiana School District<sup>64</sup>

Haas v. South Bend Community School Corporation<sup>65</sup>

Reed v. Nebraska Activity Association<sup>66</sup>

Purnell v. Pennsylvania Interscholastic Athletic Association (1972)

Golf

Fourteenth Amendment, 42 U.S.C. Section 1983

Court upheld Association's bylaws.

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<sup>64</sup>Brenden v. Indiana School District, 477 F. 2d. 1292 (1973).

<sup>65</sup>Haas v. South Bend Community School Corp., 289 N.E. 2d. 495 (1972).

<sup>66</sup>Reed v. Nebraska Activity Association, 341 F. Supp. 258 (1972).

The plaintiff was a high school senior seeking the opportunity to compete on the boys' golf team. This was denied because of the following rule of the Pennsylvania Interscholastic Association:

Girls shall not practice or compete against boys in any interscholastic athletic contest, riflery excepted.<sup>67</sup>

After hearing the plaintiff and her witnesses for the defendant, the court ruled that the plaintiff had not presented a case that would justify a preliminary injunction. On the other hand, the defense had defended its rule by identifying the physical differences between boys and girls, the desire to provide separate teams, the locker-room problems that mixed teams would present, and the need for female supervision when girls were involved. Of major importance was the fact that the golf season began on April 3, 1972, and would conclude on May 27, thereby allowing the plaintiff the opportunity to participate in just the two remaining matches.

When the case reached the United States District Court the following ruling was given:

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<sup>67</sup>Brief for Plaintiff, p. 1, Purnell v. Pennsylvania Interscholastic Athletic Association, No. 72-221 (M. D. Pa. 1972).

AND NOW, this 3rd day of August 1973, it appearing that the sole named plaintiff in this suit is no longer a member of the class she seeks to represent and cannot therefore maintain this suit, and since no other member of the class has sought to prosecute the action on behalf of its members, this action will be dismissed without prejudice unless within thirty (30) days of the date hereof another member of the class intervenes.<sup>68</sup>

Allen v. California Interscholastic Association,  
California Interscholastic Federation Northern  
Section, Eastern Athletic League (1972)

Cross-Country

Fourteenth Amendment, 42 U.S.C. Section 1983  
 and 28 U.S.C. Section 1343

Ruled in favor of defendants

The California Interscholastic Federation was named in a complaint filed by Pamela Allen, a female student who was a freshman at Lassen High School. The plaintiff desired to participate in cross-country; however, no such program existed for girls. Ms. Allen became a member of the Lassen High School freshman cross-country team and ranked second among the thirteen team members. The time she posted for the mile run also was adequate to place her third in the boys' sophomore competition for the Epstein Athletic League. At this point, the plaintiff was informed that she would not be eligible for further competition because of the following Federation rule:

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<sup>68</sup>Ibid., p. 3.

Girls are not eligible to participate on CIF boys' teams; girls may participate on girls' teams under CIF bylaws governing girls' interscholastic athletics as adopted, effective September 1, 1967, and subsequently amended as shown in the CIF Federated Council minutes.<sup>69</sup>

The plaintiff contended that the bylaws of the California Interscholastic Federation failed to provide a procedure by which she could appeal for a waiver of the rule barring females from participating with boys in interscholastic athletics.

During the trial the plaintiff received strong support on her behalf from both the high school track coach and the principal. The track coach indicated that the only opportunities available for girls interested in cross-country were as members of the boys' teams. It was his opinion that since Pamela Allen and the other girls were barred from competition, they had become deprived by the fact that other, less qualified individuals were eligible while they were not. The principal informed the court that his school was located in a poor district and it was most difficult to finance athletic teams. The nearest competitor in the league, of which Lassen High School was a member, was

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<sup>69</sup>Brief for Plaintiff, p. 3, Allen v. California Interscholastic Association, No. S2586 (E. D. Calif. 1972).

over one hundred miles away. The principal urged that girls be granted permission to participate. This effort did result in the Federation's amending its bylaws to authorize cross-country as a sport for girls. However, the rule to allow girls on boys' teams was not amended.

The defendants constructed a comprehensive rebuttal to the charges of the plaintiff. These included identifying prominent individuals in the areas of physical education and athletics to support the separate team concept. Several women, including Dr. Anne Espenchade, spoke out strongly against mixed competition.

Physical fitness test scores were presented to provide a comparison of scores for boys and girls. The findings gave a significant advantage to the boys.

The defendants placed a great deal of emphasis on the fact that the future of girls' athletics could suffer by allowing girls and boys on the same team. Because of the physical differences of the sexes, it would seem obvious that boys would dominate the existing programs. Therefore, the defendants contended that this was a rational basis for their rule.

The court agreed with the argument presented by the defendants. The court indicated that the issue here was not



whether the plaintiff had a right to run in cross-country competition; the issue was if she could be treated differently in an activity provided by the state. There must be a rational basis for her being treated differently, and the court concluded that the rule requiring separate teams in interscholastic sports competition was rational.<sup>70</sup>

Bucha v. Illinois High School Association (1972)

Swimming

Fourteenth Amendment, 42 U.S.C. Section 1983;  
28 U.S.C. 1131, 1343(3) and (4) and 2201  
and 2202

District Court ruled in favor of defendants.  
Case was appealed to U.S. Court of Appeals where  
it was dismissed.

The plaintiffs in this case were two female students, Sandra Bucha and Cynthia Cilyo, at Hinsdale Center Township High School. They initiated a class action suit against the Illinois High School Association claiming sex discrimination as they were prohibited from participating on the boys' swimming team solely because of their sex.

It was implied that the discrimination occurred as a result of the rule of the Illinois High School Association.

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<sup>70</sup>Ibid., p. 2.

Three of the Association's bylaws were challenged in the suit: the most controversial one being the rule that prohibited the schools from conducting interscholastic swimming competition for girls. It should be noted that during the course of the trial this rule was amended to allow interscholastic swimming meets for girls. The bylaw as amended states:

No school belonging to this Association shall permit girls to participate in interscholastic athletic contests with the following specific exceptions: Interscholastic contests in archery, badminton, bowling, fencing, golf, gymnastics, swimming, tennis and track and field may be permitted, and sports day may be held in basketball, field hockey, soccer, softball and volleyball provided: that each sport included in sports days is taught by a girls' physical education teacher as part of the girls' physical education curriculum and intramural program; that no girl shall practice in more than one sport at any sports day; that no school shall be permitted to enter girls in more than four sports days in the same sport during a school year; and that all such athletic contests and sports days be conducted under the rules prescribed by the Illinois League of High School Girls' Athletic Associations.<sup>71</sup>

The second challenged bylaw dealt with the limitations imposed on girls' athletic contests. These same limitations were not applicable for the boys' program. It was contended

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<sup>71</sup>Brief for Plaintiff, p. 1, *Bucha v. Illinois High School Association*, 351 F. Supp. 69 (N. D. Ill. 1972).

that the girls' athletic program was promoted in such a way as to emphasize the intramural concept with little or no emphasis on the competitive sports available for boys. Finally, the plaintiffs challenged the Illinois High School Association bylaws that completely prohibited competition with members of the opposite sex.<sup>72</sup>

The plaintiffs sought relief from the equal protection clause of the Fourteenth Amendment. They filed as a class action on behalf of themselves and all high school girls who wish to participate in interscholastic swimming. The plaintiffs indicated that they represented both those girls of exceptional ability who might wish to compete against boys as members of all boys' teams and those girls of similar or lesser ability who wish to participate in an interscholastic program that is separate from, but equal to the boys' competition.<sup>73</sup> Finally a judgment was requested against all defendants in the amount of \$25,000.00.

The Illinois High School Association and the Board of Education, who were the defendants in the case, identified three arguments on their behalf. First, they claimed not to be persons within the meaning of 42 U.S.C. 1983. Second, it

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<sup>72</sup>Ibid., p. 2.      <sup>73</sup>Ibid.

was asserted that the challenged discrimination is not an action under color of state statute, ordinance, regulation, custom or usage. Third, the defendants argued that the challenged discrimination does not constitute a deprivation of a right guaranteed by the Constitution and laws of the United States.<sup>74</sup>

The Court's responses to the arguments presented by the plaintiffs and defendants were numerous. The Court immediately took issue with the plaintiffs' assertion that to conduct separate athletic contests for boys and girls and to provide different programs for each sex is not consistent with the overall educational objectives. The fact that men consistently had better times in all swimming events in the Olympics was emphasized. The plaintiffs attempted to prove that the physical and psychological differences between male and female athletes were not significant. However, the Court felt that the testimony presented refuted this assumption entirely. The presentation of affidavits, by the defendants, from women coaches expressing fears that unrestricted athletic competition between males and females could result in male dominated teams provided strong support for the defendants.

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<sup>74</sup>Ibid., p. 3.

The final effort made by the plaintiffs was to cite sex discrimination cases dealing with equal employment opportunity under Title VII of the 1965 Civil Rights Act. The Court's reply was that neither the State of Illinois nor the Federal Congress has enacted a statute applicable to high school sports that conceivably resembles Title VII's relationship with employment opportunity.<sup>75</sup> This was followed by a summary judgment in favor of the defendants.

Ritacco v. Norwin School District,  
Western Pennsylvania Interscholastic  
Athletic League and Pennsylvania  
Interscholastic Athletic Association (1973)

Tennis

Fourteenth Amendment, 42 U.S.C. 1983

Dismissed as moot

Roxanne Ritacco, a student at Norwin High School, sought injunctive relief from the rules of the Pennsylvania Interscholastic Athletic Association which required separate girls' and boys' teams for interscholastic noncontact sports. Ms. Ritacco expressed a desire to try out for the boys' tennis team, although she was a participant of the girls' tennis team. In addition to tennis, she was also a member

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<sup>75</sup>Ibid., p. 5.

of the girls' interscholastic gymnastics and swimming teams.

The suit was filed as a class action which purported to represent all female students of the Norwin School District. When the case came to trial Ms. Ritacco had already graduated. The Court reported that since she was no longer a member of this class it would be impossible for her to represent a class if she were not a member. Furthermore, there was no record of any other female complaining that her constitutional rights had been denied.

The Court supported the "separate but equal" concept as justifiable and expressed the belief that it should foster greater participation for both girls and boys. The non-mixed-sex competition rule should also enhance the quality of the programs and prevent male domination. Finally, the Court expressed its concern relative to the physiological and psychological differences which exist between girls and boys. The Court referred to the following to substantiate their point:

There are, of course, substantial physiological differences between males and females . . . .(M)en are taller than women, stronger than women by reason of a greater muscle mass; have larger hearts than women and a deeper breathing capacity, enabling

them to utilize oxygen more efficiently than women, run faster, based upon the construction of the pelvic area, which, when women reach puberty, widens, causing the femur to bend outward, rendering the female incapable of running as efficiently as a male. These physiological differences may, on the average, prevent a great majority of women from competing on an equal level with the great majority of males. The differences may form a basis for defining class competition on the basis of sex, for the purpose of encouraging girls to compete in their own class and not in a class consisting of boys involved in interscholastic athletic competition.<sup>76</sup>

The Court's findings were that the rule was proper and should be allowed to stand.

Zald v. Michigan High School  
Athletic Association (1974)

Basketball

Fourteenth Amendment, 42 U.S.C. Section 1983

Case was dismissed

This case came about as the result of an effort to establish a girls' basketball tournament. The problem developed when it became necessary to reschedule girls' programs to become fall sports instead of winter sports.

The plaintiffs included the Committee for Equality in Women's Sports, comprised of area women athletic coaches,

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<sup>76</sup>Brief for Plaintiff, p. 3, Ritacco v. Norwin School District, 361 F. Supp. 930 (W. D. Pa. 1973).

and Roberta Zald, a female student at Ann Arbor High School. The defendant was the Michigan High School Athletic Association. The decision-making body of this Association was a Representative Council which was appointed by member schools. A decision was made in 1972 by the Representative Council to sponsor a girls' basketball tournament for the 1973-74 school year. In order to determine when the tournament should be held, a survey was conducted giving each school one vote. It was the responsibility of the school principal to make this decision on behalf of his or her school. Each principal was requested to consult his or her staff before making the decision. The tournament was scheduled for November-December since sixty-six percent of the responding schools requested this date. In order to complete the regular season of play it was necessary to reschedule girls' basketball programs from a winter sport, which it had always been, to a fall sport. For some unexplained reason, girls' swimming was also changed from a winter to a fall sport.

To counter the proposed schedule changes the following argument was presented:

The plaintiffs have alleged without supporting affidavits that 89 percent of the school principals and 99 percent of school athletic directors apparently consulted by the principals are men. As a result of this rescheduling, the following



injuries are allegedly threatened: One, Roberta Zald, a student at Ann Arbor Pioneer High School, won't be able to participate in both field hockey and basketball or swimming; two, Catherine Dritas, who coaches field hockey and basketball at Sacred Heart Academy in Bloomfield Hills, claims her job is in jeopardy; three, Karen Turner, in charge of physical education and a swimming coach at Northville High School, claims that the rescheduling "has deprived her girls of competition long established and traditional for her"; four, Sharon Young, a swimming, basketball and track coach, claims that the rescheduling "has destroyed the scheduling of competition for girls"; and five, Helen S. Connolly, in charge of tennis, basketball, and field hockey at Ann Arbor Pioneer High School, claims "that the decision of the all men council has created an impossible conflict for her girls."<sup>77</sup>

The plaintiffs desired a mandatory injunction to return to the former schedule and require the defendant to devise a plan that would give women representation in the defendant association. The defendant requested that the case be dismissed on the grounds that the Representative Council is determined by the schools themselves and not the Association. In addition, it was pointed out that it was the individual school's discretion to determine and decide its own athletic program. The Association dealt only with such events as scheduling tournaments.

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<sup>77</sup>Brief for Plaintiff, p. 2, Zald v. Michigan High School Athletic Association, No. 4-70161 (S. D. Mich. 1973).

In responding to the alleged violation of due process, the court made it clear that the plaintiffs had not been deprived of any property interests which must arise from state law. Their complaint had to do with scheduling and not the right to participate; therefore, the due process claim was dismissed.

In regard to the equal protection claim, state action does exist, but the plaintiffs failed to explain how they were treated unequally. They do not object to the separation of the girls' and boys' programs. The plaintiffs did not allege that only male principals were consulted. The fact that the large majority of principals are male does not warrant an equal protection claim, especially not against the State Athletic Association which has nothing to do with the selection of principals. There was no proof presented that the Representative Council discriminated against female members, and further there is no law requiring a certain male-female ratio.

The court supported the affidavit provided by the Director of the Michigan High School Athletic Association which stated that the new scheduling would avoid conflicts with the boys' programs and allow better utilization of athletic facilities.

Kuehl v. The Board of Education of  
Pleasant Valley Community School District (1975)

Equal Funds

Fourteenth Amendment, 42 U.S.C. Section 1983,  
20 U.S.C. Section 1681, and 28 U.S.C. Sections  
1331, 1343(3) and (4), 2201 and 2202

Case never came to court

Tracey K. Kuehl, a female student in the Pleasant Valley Community School District, brought suit in an effort to secure equal expenditures in the girls' and boys' interscholastic athletic programs. The suit was filed as a class action on behalf of all students.

The suit was directed toward the Board of Education and its members because it was their responsibility to provide the necessary funds to finance the various functions and activities of the school district. It was alleged that the defendant school board adopted a schedule for the payment of coaching expenses that produced disproportionate funding. A schedule was presented that indicated that male members received over seventy-five percent of the public funds expended for coaching and the female coaches were left with less than twenty-five percent.

It was also alleged that funding was provided for support programs such as "pep clubs" and "cheerleader squads"

which existed to promote boys' athletics. It was contended that this lowered female students to a second-class status and denied them the equal protection of the law.

The plaintiffs further stated that they had suffered the following damages as a result of the wrongful acts of the defendants:

(a) They have been denied their right to try out for and participate in interscholastic sports for which they are fully qualified;

(b) They have been deprived of the opportunity for development of their full athletic potential, thus limiting their ability to compete in amateur contests such as International Olympic Games and to compete and earn a living by participating in professional athletics;

(c) They have been deprived of the opportunity for full development of those qualities associated with athletic training and competition, such as self-discipline, confidence, sportsmanship and the will to excel;

(d) They have been placed at a disadvantage in competing for and obtaining athletic scholarships at colleges for which they might have been qualified had they been able to develop and demonstrate their proficiency in interscholastic athletic events;

(e) They have been denied the opportunity to acquire the honors, awards, trips, publicity and public acclaim associated with interscholastic sports;

(f) They have been humiliated and subjected to ridicule and mental stress and embarrassment by the continual refusal by Defendants to recognize and encourage their desire to develop their athletic potential, and have been subjected to the status of second-class citizens.<sup>78</sup>

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<sup>78</sup>Brief for Plaintiff, p. 3, Kuehl v. Board of Education of Pleasant Valley Community School District (S. D. Iowa 1975).

It is not clear why this case never came to court, because the facts presented seemed to indicate justification for relief. However, it is assumed the plaintiffs dropped all charges.

Knox v. Colorado High School  
Activities Association (1974)

Golf

Fourteenth Amendment, 28 U.S.C. Section 1343(3) and (4), 42 U.S.C. Section 1983, and 42 U.S.C. Section 1985(3)

Case dismissed by agreement of both parties

On first examination this case seems a bit unusual since its findings are not consistent with the results of other recent cases.

The plaintiff was a female golfer who claimed she was being deprived of her right to participate. There was no girls' golf team, and State Association rules did not allow for mixed competition. It was the plaintiff's contention that she should receive relief under the equal protection and due process clauses of the Fourteenth Amendment of the United States Constitution.

The court's response to the request for relief was that it lacked jurisdiction as the complaint failed to state a substantial claim under the Federal Constitution.

In addition, the court pointed out that the plaintiff failed to allege the deprivation of a right guaranteed by the Fourteenth Amendment and thus failed to state a claim upon which relief could be granted.

It was determined that the rule in question did not prohibit girls from participating in any interscholastic sport. It only prohibited mixed competition. In fact, girls had been involved in interscholastic competition for years.

In conclusion, the court found that the plaintiff was not being deprived of an opportunity to participate in golf because of the existing rules of the Colorado Activities Association. The reason the plaintiff was being prevented from engaging in interscholastic golf was due to the fact that the high school attended failed to provide competition for females in this sport. Obviously, the plaintiff had directed her complaint against the wrong party.

Cape v. Tennessee Secondary School  
Athletic Association (1976)

Basketball

Fourteenth Amendment, 28 U.S.C. Section 1343(3),  
42 U.S.C. Section 1983, and Title IX of the  
Education Amendments Act of 1972

On appeal ruled in favor of defendants

Victoria Cape, a female student at Oak Ridge High School, challenged the rules of the Tennessee Secondary School Athletic Association pertaining to girls' basketball. Specifically, she objected to the half-court, six-player team, which was composed of three forwards who shoot, and three guards who do not.

During the 1976-76 school year the plaintiff played as a guard on her high school team. She alleged that as a guard, under girls' rules, she was unable to shoot and be involved in the full court strategy that a five-player team would experience. Also it would be virtually impossible for her to obtain an athletic scholarship in basketball without five-player experience. It was pointed out that Tennessee was one of only five states that continued to use separate rules for girls' basketball.

The defendants argued that the six-player version allowed for more participants, was less strenuous, and also permitted the girl with no shooting ability, but with defensive skill, an opportunity to play. It was pointed out that in 1969 the member schools of the State Association voted on and overwhelmingly defeated a proposal to change to a five-member team.

The district court took issue with the defendants in regard to justifying the six-player concept to protect girls. The court indicated that surely some boys could benefit from the split courts as weak and incapable athletes exist with both sexes.<sup>79</sup> The court said in summary:

The court recognizes that athletics "has come to be generally recognized as a fundamental ingredient of the educational process." Athletics is no longer strictly an "extra-curricular" activity but has become an integral ingredient in a well-rounded curriculum. Thus, any injury suffered by the plaintiff can be spoken of in terms of a deprivation of an equal opportunity solely by reason of her sex.

Furthermore, the proof shows that plaintiff is deprived of the greater health benefits enjoyed by male players under the full-court rules. And, finally, the proof establishes that the plaintiff, due to the shooting prohibition applied to guards, has a lesser opportunity to gain a college scholarship than she would if she could play under the full-court rules.<sup>80</sup>

The court ruled in favor of the plaintiff on November 24, 1976.

An appeal was filed by the defendants with the United States Court of Appeals and the case was tried in June, 1977. On October 3, 1977, the decision was reversed according to the court:

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<sup>79</sup>Geadelmann, op. cit., p. 86.

<sup>80</sup>Ibid.



It takes little imagination to realize that were play and competition not separated by sex, the great bulk of the females would quickly be eliminated from participation and denied any meaningful opportunity for athletic involvement. Since there are such differences in physical characteristics and capabilities, we see no reason why the rules governing play cannot be tailored to accommodate them without running afoul of the Equal Protection Clause.

There is no evidence to any intent to discriminate between the sexes. There is no claim that defendants discriminated in furnishing services and facilities on the basis of sex. Plaintiff's remedy, if any, should more appropriately be directed to activity within the framework of the Association, itself, a framework which is not shown to be inadequate to resolve issues of this sort.<sup>81</sup>

It should be noted that the findings of the court were based entirely on the Equal Protection Clause of the Fourteenth Amendment. In the original complaint the plaintiff had also alleged there was a violation of Title IX of the Education Amendment of 1972. However, the court rejected the applicability of Title IX because it concluded that it could not be interpreted as a grant of a private cause of action and in addition the plaintiff had not exhausted her administrative remedies.<sup>82</sup>

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<sup>81</sup>Brief for Plaintiff, p. 1, *Cape v. Tennessee Secondary School Athletic Association*, No. 77-1153 (6th Cir. Ct. E. D. Tenn. 1977).

<sup>82</sup>*Geadelmann*, loc. cit.

Brandstetter, et al v. Indiana High School  
Athletic Association, Inc. (1976)

Volleyball

Fourteenth Amendment, 42 U.S.C. Section 1983 and  
20 U.S.C. Section 1682

Court denied injunction

This is the only case reported in which a suit was brought to prevent boys' participation on an all-girl team. Diane Brandstetter, a female volleyball coach at Crispus Attucks High School, and students on her volleyball team requested a preliminary injunction stating that the State Association rule allowing boys to be members on a girls' team was unconstitutional.

The rule in question was adopted in 1972 following the decision of the Supreme Court of Indiana in the Haas case. The Indiana High School Athletic Association adopted Rule 9, Sections 9 and 10 which read as follows:

Section 9. Boys may participate with or against girls on interschool teams only when:

(1) the school being attended does not have a boys' program in that sport, and

(2) they follow the contest rules and season rules established for girls, and

(3) they have not represented their school during that school year in that sport.

If and when a boys' program is provided, their future eligibility will be limited to the boys' program in that sport.

Section 10. Girls may participate with or against boys on interschool teams only when:

(1) the school being attended does not have a girls' program in that sport and

(2) they follow the contest rules and season rules established for boys and

(3) they have not represented their school during that school year in that sport.

If and when a girls' program is provided, her future eligibility will be limited to the girls' program in that sport.<sup>83</sup>

Figures were presented which indicated that participation in volleyball had increased state-wide both in number of schools and student participants. In 1974 there were 413 schools with 8,300 participants and by 1976 there were 487 schools and 11,800 participants. It was pointed out that there had never been a state-wide interschool volleyball program for boys.

In reviewing the evidence the court ruled that the plaintiffs had not supported their position. The court based their decision on the participation of boys in the existing programs. Of the 11,800 volleyball participants in 1976 only three were boys. The evidence also shows that one of the three failed to make the starting team. The team that had two boys was defeated in the state championship game by

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<sup>83</sup>Brief for Plaintiff, p. 2, Brandstetter v. Indiana High School Athletic Association, No. 36828 (Cir. Ct. Hancock City, Ind. 1976).

an all-girls' team. The court stated that it was provided with no more reason to strike down the "mixed participation" rule than to recognize superiority of males in athletics.<sup>84</sup> The court noted that at some future date it may be necessary to re-evaluate its decision. However, there was no justification to do so at this time.

Jones v. Oklahoma Secondary School  
Activities Association (1977)

Basketball

Fourteenth Amendment, 42 U.S.C. Section 1983  
and Title IX of the Education Amendments 1972

Ruled in favor of defendants

This case closely resembles Cape v. Tennessee  
Secondary School Athletic Association. The plaintiff,  
Cheryl Jones, claimed that the distinction between boys' and  
girls' basketball rules deprived her of equal protection of  
the laws under Title IX of the Education Amendments Act and  
the Fourteenth Amendment to the United States Constitution.<sup>85</sup>  
The plaintiff also relied on Brown v. Board of Education of  
Topeka to support her claim for equal opportunity.

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<sup>84</sup>Ibid., p. 5.

<sup>85</sup>Brief for Plaintiff, p. 1, Jones v. Oklahoma  
Secondary School Activities Association, 77-04-77-T  
(W. D. Okla. 1977).

As in Cape, the court did not deem the use of Title IX appropriate because the plaintiff had not exhausted the process of administrative review. The court ruled the Brown decision "cannot and must not be stretched to such lengths as to require every program, every rule, every facility and every policy in every school to be the same."<sup>86</sup> It was pointed out that high school girls in Oklahoma were treated equally with boys as far as a program for interscholastic basketball was concerned. The executive secretary of the Oklahoma Secondary School Activities should be offering interscholastic basketball for girls. This would result in providing a program for both boys and girls; therefore, the purposes of the Brown decision would be satisfied.<sup>87</sup>

In reference to the Cape decision, the court in Jones accepted the fact that both cases were virtually identical since the plaintiffs in both instances claimed that the "half court" basketball rules for girls denied girls equal protection. However, the court in Jones would not accept the judgment of Cape. It should be noted at this point that the judgment referred to was the trial court decision which ruled in favor of the plaintiff in Cape.

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<sup>86</sup>Ibid.

<sup>87</sup>Ibid.

This decision was later reversed, which was unknown at the time of the Jones trial.

The conclusion of court in Jones was:

The present rules of which plaintiff complains may well be out of step with other state rules and may not be in the best interests of the high school girls who play basketball in Oklahoma. However, absent a substantial deprivation of a constitutional right, such a policy decision is best left to the judgment of those who play, coach, and administer interscholastic basketball, and not the federal court.<sup>88</sup>

#### SUMMARY

The decisions rendered in the reported cases upheld the rules and regulations of the State High School Athletic Associations or its allied members in one half of the twenty-six cases. Of this total, three were dismissed or stricken as moot. One additional case, Kuehl v. The Board of Education of Pleasant Valley Community School District, never came to trial; therefore, the time limitation set by the court for a temporary restraining order expired.

The right to appeal to a higher court was exercised in five separate cases. Of these, the decision of the lower court was reversed on three occasions: twice in favor of the plaintiff and once for the defendant Athletic Association.

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<sup>88</sup>Ibid., p. 2.

In the remaining two cases, the appeals court agreed with the decision of the lower court ruling in favor of the Athletic Association in one instance and for the plaintiff in the second.

### IMPLICATIONS

There is considerable disagreement among interscholastic coaches, school administrators, and legal experts as to the best approach for providing a satisfactory program of interscholastic athletics for girls. It is obvious from the litigation reported that there is also a genuine dissatisfaction on the part of many female high school athletes regarding the existing programs.

Examination of court decisions reveals a possible pattern emerging. The outstanding female high school athlete who brings a suit to require mixed competition in a noncontact sport will have an excellent chance of being successful provided that the school has no separate program for girls in that sport.<sup>89</sup> Those who seek a class action or have the opportunity to participate in a separate program are not as apt to gain relief.<sup>90</sup> The female who wishes to compete in

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<sup>89</sup>Geadelmann, op. cit., p. 69.

<sup>90</sup>Ibid.

contact sports with males has generally been unsuccessful. The physical and psychological differences existing between the sexes has proven to be a significant factor in determining the outcome of several cases.<sup>91</sup>

In attempting to analyze the results of the litigation pertaining to sex discrimination in high school interscholastic athletics, it becomes obvious that it is impossible to predict what type of program would be acceptable to the female participant and at the same time satisfactory to those who are responsible for its administration. However, the literature has provided several alternatives that could have implications for the future. These are presented giving both their strengths and weaknesses.

### Separate but Equal

Possibly the most popular alternative for providing interscholastic athletics for both boys and girls would be to field "separate but equal" teams. Initially, this approach was thought to be in direct conflict with the Brown decision of 1954 which outlawed racially segregated education. However, Rubin identified two factors that distinguished the

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<sup>91</sup>Ibid.



separation in Brown from equality in athletics. First, Brown dealt with race, a suspect classification; second, the creation of inferior status was unwarranted. It is incorrect to assume that separation in high school athletics on the basis of sex "creates" any inferiority.<sup>92</sup> Of major significance is the fact that the Title IX Regulations permit separate programs based on sex.

Support for the separation of male and female programs has come from both men and women. As indicated previously, The National Federation of High School Associations, which is male dominated, strongly endorses such a program. Kuhn, an athletic administrator from Wisconsin, indicated that it was an accepted fact that the average girl could not perform at the same level of accomplishment in athletic endeavors as boys. It was her contention that girls would generally be eliminated from the athletic program if team membership were open to both boys and girls. Possibly, the exceptionally talented girls could survive; however, the competitive needs of the majority of girls could not be

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<sup>92</sup>Richard A. Rubin, "Sex Discrimination in Interscholastic High School Athletics," Syracuse Law Review, 25 (1974), p. 557.

satisfied with joint membership on the same team.<sup>93</sup> Obviously, Ms. Kuhn would favor the development of a comprehensive girls' athletic program that did not include mixed competition. A great many other female coaches and athletic administrators would concur with this stand. Undoubtedly, the large majority of men in interscholastic athletics would also agree.

The best example of a successful separate program exists in the state of Iowa. The Iowa girls' basketball program is considered by many to be second to none at the interscholastic level. No other state comes close to providing a comparable program. It should also be noted that the growth of girls' interscholastic programs nationwide during the past ten years has been tremendous. This growth has been realized largely through the use of the separate team concept.

Federbush of Michigan offered an interesting system to complement the separate but equal approach. She suggested that an Olympic-style system be included to solve the

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<sup>93</sup>Karen Kuhn, "Girls' Interscholastic Athletic Programs" (paper presented at the 58th annual meeting of the National Federation of State High School Associations, Miami, Florida, June 27, 1972).

inevitable imbalances of participation, resource allocation, and spectator interest. For example, the boys' varsity and the girls' varsity would together constitute the school's varsity team. Their games would be scheduled during the same day or evening and they would play their counterparts from another school. At the end of the two contests, the point scores would be totaled. If the girls' basketball squad won 50-45 and the boys' team lost by a score of 55-75, the final school score would amount to a 15-point loss.<sup>94</sup> Through this approach, both the boys' and girls' teams could use the same facilities and travel together. Further, comparable budgets, schedules, equipment, and publicity could be shared.

As might be expected, there has also been criticism of the separate-but-equal approach. One of the major criticisms is that it does not allow the outstanding female athlete an opportunity to participate on the male team, which could be the team with the highest level of competition. Obviously, the expense of providing two separate teams, as opposed to one mixed team, is a factor to consider.

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<sup>94</sup>Kenneth Davidson and others, "Sex-Based Discrimination," American Case Book Series (Minneapolis: West Publishing Company, 1974), p. 862.

Christine Grant, writing in the Equality in Sport for Women, presents four significant questions relating to the separate but equal approach:

1. Should there be an equal number of sports offered to males and females?
2. Should the same sports be offered to males and females or can there be different sports for the sexes?
3. Should there be the same number of teams in each sport?
4. Should there be the same number of players on each squad?<sup>95</sup>

When considering each of these questions the thought of implementing separate teams becomes much more complex.

The separate-but-equal concept has received support from the courts. For example, in the cases of Bucha and Ritacco the courts found the existing programs, which provided separate teams for girls and boys, in compliance. In Bucha, a girls' swim team did exist, but there were restrictions applicable to girls and not to boys. The court upheld these regulations on the basis of psychological and physiological differences between males and females. In Ritacco, a girl wanted to try out for the boys' tennis team rather than the girls' team. The court stated:

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<sup>95</sup>Geadelmann, op. cit., p. 6.

Superficially, the maintenance of separate sports teams suggests possibility of a denial of equal protection of the laws, but sound reason dictates that "separate but equal" in the realm of sports competition, unlike that of racial discrimination, is justifiable and should be allowed to stand where there is a rational basis for the rule . . . Indeed it seems clear that where the opportunities for engaging in sports activities are equal, as is true here, the rule requiring separate teams based on sex fosters greater participation in sports.<sup>96</sup>

Three reasons were presented in the Minnesota Law Review as to why the separate but equal doctrine should be rejected in sex discrimination athletic cases. First, when considering noncontact sports, no body contact is required; therefore, there is no justification on that basis. Second, separation of the sexes implies inferiority for women. Third, separate girls' teams can never be equal to boys' teams. If girls' teams as a whole are generally less skilled than boys' teams, then the boys' teams will be the "prestige" teams. The superior female athlete will not have the opportunity to gain as much recognition as her male counterpart.<sup>97</sup>

The impact of the proposed Equal Rights Amendment at the national level and the Equal Rights Amendments that

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<sup>96</sup>Ibid., p. 77.

<sup>97</sup>Minnesota Law Review, op. cit., p. 369.

already exist in some states could have an adverse effect on the separate but equal concept. At this writing the federal ERA is still three states short of the thirty-eight needed to bring about its passage. However, should it pass, it is reasonable to assume that both males and females would have the right to enter mixed competition in contact sports. This would be consistent with the purpose of the ERA, which is to eliminate sex-based classifications and to establish ability as the sole criterion for different treatment.<sup>98</sup>

Only two court cases involving girl athletes have been reported in states that have passed their own ERA. However, the findings in each case are significant. In Darrin, where two girls wanted to play on the high school football team, the court ruled in favor of the girls. The court indicated that the Athletic Association rule discriminated on the basis of sex, which was in violation of the state's ERA.<sup>99</sup> In Commonwealth of Pennsylvania the commonwealth filed suit against the Athletic Association maintaining that its rule forbidding mixed competition was unconstitutional under the state ERA. The court agreed with the plaintiff.<sup>100</sup>

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<sup>98</sup>Syracuse Law Review, op. cit., p. 573.

<sup>99</sup>Darrin, loc. cit.      <sup>100</sup>Commonwealth, loc. cit.

### Mixed Competition

Should the proposed Equal Rights Amendment become law, there is a strong possibility that mixed competition would result. This would allow both sexes to try out for all teams, in both contact and noncontact sports. In theory, this would produce coed teams, selected solely on the basis of ability and without consideration for significant physical differences between the sexes.

The integration of the sexes in all sports would provide three advantages. First, it would permit the superior female athlete to participate at a more competitive level. This would satisfy one of the major drawbacks of the separate but equal doctrine. Second, there would be a financial savings since it would not be necessary to provide a separate program for each sex. Third, both males and females would be governed by the same administration and directed by the same coaching staff.

Unfortunately, the mixed competition approach would, in all probability, eliminate the very thing it was attempting to achieve, and that is equal opportunity for females. As a result of the general physical differences between males and females and the limited opportunities girls have had in the past, such a scheme could eliminate the majority of girls

from interscholastic competition unless more than one varsity team were fielded in each sport.

### Equal Representation

The equal representation alternative would require that the makeup of any given team be fifty percent female and fifty percent male. The procedure would work quite well in such individual sports as tennis and golf provided that males competed against males and females against females. Students would have equal opportunity and the cost factor would be reduced since expenses could be consolidated.<sup>101</sup>

As might be expected, there is a negative side to this plan. Even though students would participate in equal numbers, the team would not necessarily be representative of the most outstanding athletes. The total number of participants would be reduced by half when compared to the separate team concept. Those students who disliked mixed competition would have no opportunity to participate at all.

### Components Approach

Rubin<sup>102</sup> has suggested an approach that would accommodate both sexes using a single team in a given sport.

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<sup>101</sup>Geadelmann, op. cit., p. 5.

<sup>102</sup>Rubin, op. cit., p. 563.



Each team would include two groups known as components; one would be predominantly male, the other predominantly female. Each component would represent its school and the outcome of the contest would depend on the performance of both. For example, there would be two separate contests, one for the male dominated component and one for the female dominated component. As in the plan proposed by Federbush, the scores of each contest would be combined to determine the overall winner.

Such an approach to team makeup would allow the exceptional female athlete to participate with the more talented group. However, integration of a component could be limited on a percentage basis. The nonpredominant sex could represent no more than twenty percent of the total members of that component. Again, this could produce problems because the membership would be controlled by percentages rather than ability. For example, if the female basketball component is composed of a fifteen member squad, the twenty percent limitation would permit three to be male. This could result in only two females on the starting five. In the final analysis you still have two teams with limited integration.

### Three Team Concept

Proponents of this approach maintain that it eliminates the worst and offers the best of the separate sex and mixed approaches. Structurally, it would consist of three separate teams for each sport. The varsity would include the superior male and female athletes. The sole criteria for selection would be the ability of the individual. The remaining two teams would be separated by sex.

This scheme would provide an opportunity for the exceptional female athlete, and at the same time provide competition for virtually anyone, both male and female, to compete with those of comparable ability.

Obviously, such a program would be more expensive than any other proposal since a third team would be included. In addition, scheduling could present a problem unless participating schools had a large participation rate. Also, women's groups have indicated that unless there is a requirement that the varsity team be fifty percent female it would become, in effect, a second all male team.<sup>103</sup>

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<sup>103</sup> Bernice Sandler and others, "What Constitutes Equality for Women in Sports?" Project on the Status and Education of Women (Washington: Association of American Colleges, 1974), p. 11.

### Existing Alternative Programs

Three programs identified in the Syracuse Law Review have made an effort to eliminate discriminatory practices in interscholastic athletics.<sup>104</sup> One deals with the experiment conducted in New York State which allowed girls on boys' interschool athletic teams under certain conditions. In relation to mixed competition, it was indicated that there would be no coed competition in contact sports. Where schools provided separate competition for male and female students in a specific sport, the principal would have the prerogative to permit a female pupil to participate on the male team unless it involved a contact sport. In those schools that did not provide separate competition for males and females in a specific sport, no student could be excluded from participating unless the activity was considered to be a contact sport.

As described in the results of the New York study, which can be found in Appendix C, those involved considered the plan to be very successful. However, there was no provision for mixed competition in many of the most popular activities since they were identified as contact sports.

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<sup>104</sup>Syracuse Law Review, op. cit., p. 559.

Therefore, this plan solved only a portion of the problems facing the female athlete.

In an attempt to provide an interim solution to the problem of equal opportunity in interscholastic athletics the New Mexico Board of Education put forth the following provision:

Until a comparable competitive opportunity is provided to all students, regardless of sex, in the schools of New Mexico under the jurisdiction of this Board, the following standard for participation in interscholastic noncontact sports shall apply: No officer, agent or employee of any school subject to the jurisdiction of this Board shall bar or limit in any manner the opportunity of any student, regardless of sex, on any ground other than individual merit to participate in interscholastic competition in noncontact sports including, but not limited to, tennis, swimming, golf and track and field. Where a school maintains separate teams for male and female students, a "comparable competitive opportunity to participate" shall exist only in cases where teams are provided with comparable funding, scheduling, coaching, equipment and facilities and enjoy comparable student participation.<sup>105</sup>

The intent of the Board was to develop separate but comparable programs. Until this is accomplished, females would be permitted to compete on the boys' team in noncontact sports. However, when comparable teams are established, then

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<sup>105</sup> Ibid., p. 561.

the exceptional female player would possibly be deprived of an appropriate level of competition.

The Michigan legislature enacted a rule which allowed female athletes to try out for all noncontact sports even if there were a separate girls' team in that sport. This would permit the outstanding female to seek competition at what might be a more competitive level. However, it would also give boys an equal opportunity to try out for the female team, which could result in predominantly male teams.

In each of the three programs just described some relief was provided for the female athlete. However, none has completely resolved the discrimination issue.

It should be safe to assume that one of the preceding alternatives or some combination will undoubtedly be developed to provide a comparable interscholastic athletic program for girls. However, before this is accomplished there are numerous factors that must be considered. Geadelmann indicated that the courts must resolve the following issues:

Are there differences between the sexes which justify disparate treatment of males and females by the state? Whether the courts will choose to treat females as a class and allow separation of the sexes or whether the courts will choose to treat each person according to individual abilities regardless of gender remains to be seen. There are

those who argue for the former, claiming that only by separateness will women have an equal opportunity to participate in athletics and physical education, and there are those who argue for the latter, claiming that separation serves to confine women of exceptional ability to lower levels of competition and performance.<sup>106</sup>

Geadelmann further stated that the following questions must be reckoned with in order to establish a basis for future litigation:

1. The definition of contact sport.
2. The physical capacities of women.
3. The degree of equality in separate-but-equal.
4. The operational equality of open programs for all.<sup>107</sup>

Although the large majority of sex discrimination cases have relied on the equal protection clause of the Fourteenth Amendment for relief, it appears that future litigation will be greatly affected by more recent legislation. Only two of the reported cases cited Title IX as a basis for relief and in both instances this relief was denied due to the fact that the plaintiff had not exhausted her administrative remedies. However, the presence of Title IX has already created dramatic changes in girls' athletic

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<sup>106</sup>Geadelmann, op. cit., p. 80.

<sup>107</sup>Ibid., p. 87.

programs throughout the country. Its impact has resulted in a tremendous increase in the offerings for girls' sports. This amendment should continue to provide an avenue for females for overcoming existing discriminatory practices.

The existing state Equal Rights Amendments and the proposed federal Equal Rights Amendment offer a more unpredictable, yet very important legal recourse for the female athlete. Favorable decisions have already been rendered for the female athlete in two states that have their own ERA. It should be noted that in both instances no comparable problem existed for girls; therefore, it is possible that even in these cases, the separate but equal doctrine could have been accepted. However, a recent decision by a group of federal judges in Massachusetts further complicates the situation. The judges were asked by the state legislature for an opinion on a proposed law that would forbid mixed competition in contact sports. The consensus was that the law would be unconstitutional because of the existing state ERA. This would be in direct conflict with Title IX regulations which accept the separate but equal doctrine.<sup>108</sup>

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<sup>108</sup>"Opinion of the Justices to the House of Representatives," North Eastern Reporter, 2nd Series 371 (1977), pp. 426-430.

Regardless of the conflict and controversy within the judicial system, the decisions rendered by the courts will dictate the future of interscholastic athletic programs unless school officials are willing to take the initiative to develop and provide comparable programs for all students.



## Chapter 6

### SUMMARY, CONCLUSIONS AND IMPLICATIONS

The purpose of this study was to examine the findings of court cases involving sex discrimination of the female athlete by the State High School Athletic Associations and their allied members. An evaluation of the litigation was made to determine whether the rules and regulations of the State Associations were discriminatory.

Each case was examined to identify any violations pertaining to specific rules and regulations of the Associations. Based on the decisions of the courts, the following questions were answered:

A. What is the legal status of each State Athletic Association?

1. Is the Association part of state government?
2. Is the Association an independent body?
3. What is the Association's responsibility to the state?
4. What is the Association's legal authority in imposing sanctions on individual schools and/or participants?

5. What recourse is provided for those found in violation?

B. According to court decisions are the State Associations in compliance with the federal laws?

1. Are the State Associations in violation of the Fourteenth Amendment to the United States Constitution?

2. Are the State Associations in violation of Title IX of the Education Amendments Act of 1972?

3. Are the State Associations in violation of the Civil Rights Acts?

C. Under the rules and regulations of each State Association, is provision made for a balanced program for both males and females?

1. Are there equal opportunities for both sexes to participate?

2. Are comparable facilities available?

3. Is there equal funding?

4. Is scheduling basically the same?

D. What are the implications for girls' athletics as a result of the court litigation?

1. Will there be separate but equal teams?

2. Will there be a quota system?

3. Will there be mixed competition?

4. Will there be separate and mixed teams?

An investigation of the literature has shown that no other study has been done on the topic of court litigation involving the discrimination of the female high school athlete. Other studies have included the organization and administration of high school athletics and one study has been made on the topic of college athletics and court litigation.

The litigation for this study was selected and categorized as it pertained to the topic. The two delimiting factors used for the categorization of the litigation were the Federal Laws and the Rules and Regulations of the State High School Athletic Associations.

The interpretation of the litigation and the court decisions rendered determined the constitutionality of the Rules and Regulations of the High School Athletic Associations.

#### FINDINGS

An investigation of the litigation has found the following:

The litigation has involved Federal laws which include Title IX, the Civil Rights Acts and the Fourteenth Amendment.

The litigation was heard in the State Courts, District Courts, and the Court of Appeals.

The litigation has been asked to rule on six specific complaints against the Associations. These include separate game rules for males and females, inconsistent scheduling practices, disallowing mixed competition for contact sports, disallowing mixed competition for noncontact sports, depriving married female students the right to participate, and unequal distribution of funds.

The litigation involved ten different sports in which the plaintiffs were seeking to become participants. These included basketball, baseball, tennis, golf, cross-country, swimming, skiing, volleyball, football, and soccer.

The litigation has increased during the past eight years. In 1971 only three cases were heard; in 1972, seven cases; in 1973, five cases; in 1974, three cases; in 1975, three cases; in 1976, three cases; and in 1977, two cases.

The litigation resulted in twenty-six separate trials. In each case the State Athletic Association or one of its allied members was involved.

The decisions rendered by the courts denied an injunction against the State Associations, or their allied members, in thirteen of the cases reported. Three cases were dismissed or stricken as moot, with one having expired the time limitations.

The right to appeal to a higher court was exercised in five separate cases. Of these, the decision of the lower court was reversed on three occasions--twice in favor of the plaintiff, and once for the defendant Athletic Association. In the remaining two cases, the appeals court agreed with the decision of the lower court ruling in favor of the Athletic Association in one instance and for the plaintiff in the second.

The litigation involving states' Equal Rights Amendments was cited three times and Title IX was cited on two occasions. The Fourteenth Amendment was cited in the litigation in all twenty-six cases. There were three separate parts to this amendment included in the litigation. The equal protection clause was used twenty-five times, state action twelve times, and due process nine times.

The litigation listed Federal Law 42 U.S.C. twenty-five times, with Section 1983 being named in each instance. Title 28 U.S.C. was used thirteen times, with Section 1343(3)

(4) being named seven times. Title 20 U.S.C. was invoked three times with Section 1681 being used two times.

The litigation involved the State Courts in eight of the cases, the District Court in twenty cases and the Court of Appeals in five cases.

The decisions rendered by the courts found that the civil rights of the plaintiffs were violated by the defendant in thirteen cases. The Federal laws that were invoked were 42 U.S.C., Sections 1983, 1985, 1988; 28 U.S.C., Sections 1254(1), 1343(3)(4), 2201 and 2202; and 20 U.S.C., Sections 1681 and 1682.

Of the six specific complaints that resulted in litigation against the State Associations, thirteen were found in violation by the courts. Girls argued for, and were granted the right to be a member of a mixed team in non-contact sports in nine cases and were allowed to integrate boys' teams in contact sports on three occasions. The female who was barred from competition as a result of her marital status was reinstated by the court.

An investigation of the rules and regulations of the State Athletic Associations found the following:

The majority of the State High School Athletic Associations are voluntary organizations composed of member

schools. They possess legal status as a result of the authority delegated to them by Boards of Education.

The Associations are designated as independent but quasi-governmental organizations responsible to the schools.

Of the fifty Associations, only five operate directly under a State Department of Education.

Each of the Athletic Associations serves its respective state as a regulatory body for interscholastic athletics.

As a result of its delegated authority, a State Association has the power to impose sanctions and limitations on both individual schools and participants.

To date, the majority of State Associations have not provided an adequate procedure of due process for those involved in Association activities.

A review of the literature indicated that the athletic programs provided for girls are not as comprehensive as those made available for boys. The boys' programs enjoy greater accessibility to facilities, receive a larger portion of the athletic budget for both activities and personnel, and their schedule of activities is greater than that offered for girls.

## CONCLUSIONS

The rules and regulations of the State Athletic Associations complied with the Civil Rights Doctrines in thirteen of the twenty-six cases.

The Associations complied with the equal protection clause of the Fourteenth Amendment in ten of the twenty-two cases involving eligibility. The eligibility rule, denying mixed competition in noncontact sports, was challenged by the plaintiffs in eighteen cases and was found unconstitutional in nine. In only one of the four cases were the Association's rules pertaining to contact sports upheld. However, it should be noted that in two of these cases, a State's Equal Rights Amendment existed, and in addition, there were no comparable sports for girls available.

The right of the Association to determine the specific game rules to be adopted were found to be constitutional in both cases presented.

The Association's rule denying participation to a married female student was ruled unconstitutional.

The one case brought as a result of alleged unequal funding for girls' athletics never came to court; therefore, the existing funding procedure remained unchallenged.



It has been established that the Associations have the authority to govern interscholastic athletics. This includes establishing rules and regulations that control the number and types of activities to be offered, as well as determining those eligible to participate. However, recent litigation has made it necessary for numerous Associations to re-evaluate their existing programs.

Those Associations cited for not providing comparable programs for both boys and girls have been required to comply with existing laws.

The major challenge to the rules and regulations of the Associations has been directed toward eligibility requirements. These, along with the imbalance between the girls' and boys' programs, have created a situation which each Association must consider.

#### IMPLICATIONS FOR GIRLS' ATHLETICS

The findings of this study reveal that numerous questions relating to girls' interscholastic athletics have been identified and answered. However, when it is considered what the future holds for girls' programs, there remain questions that have no clear and consistent answers.

Undoubtedly, one of the most significant of these is the future role of the State Athletic Association. It has been established that the Association has legal status and the authority to control athletics. On the other hand, there is increasing opposition to this control as indicated by the recent litigation. In addition, State Departments of Education are becoming more cognizant of the problems facing Associations, and this could lead to some state intervention or even complete takeover. Even though recent legislation has provided females with the right to comparable programs, changes at the state level could drastically alter all existing and future programs.

The attitude and philosophy of the men and women charged with the responsibility of administering the athletic programs will be crucial in determining how rapidly, and to what extent, changes will occur. There remains a reluctance among some men and women to promote girls' athletics at all.

Perhaps the impact of Title IX and ERA legislation will set the tone for future athletic programs. Title IX has already drastically changed the complexion of physical education classes and it appears that it has the same

potential for athletics. If ERA becomes a reality, it, too, may be a factor in program equalization.

Although the preceding information indicates that it is impossible to know what lies ahead for girls' athletics, the following implications appear to have merit:

Title IX will continue to provide more opportunities for the female athlete.

More women will become active in the administration of interscholastic athletics.

Coed sports will increase in number and volume.

Girls will become more involved in contact sports.

Interest and participation in women's sports will continue to grow.

The training of women coaches will receive greater emphasis.

More state government will be involved in control of athletics.

Larger budget expenditures for the girls' programs will be made.

The separate-but-equal doctrine will continue to be the most popular choice of both men and women for conducting boys' and girls' athletics.

The three-team concept (coed, boys, girls) could, in the final analysis, provide the compromise necessary to satisfy both the law and those that administer the program.

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## APPENDIX A

Desirable Practices in Athletics for  
Girls and Women<sup>109</sup>

We believe that, for the welfare of the girls and women who participate in sports, certain practices should be followed. We therefore present the following suggestions for your guidance in conducting athletic programs.

Standards: Standards in athletic activities should be based upon the following guides:

1. Athletic activities for girls and women should be taught, coached, and officiated by qualified women.
2. Each girl who is physically able to do so should be given a chance to participate in a variety of activities, both team and individual, and an opportunity to be a member of a team in those sports for which teams are organized.
3. Recognition should be given to every opportunity to secure acceptable results in all situations in which competition is carried on.
4. The results of competition should be judged in terms of benefits to the participants rather than by the winning of championships, or the athletic or commercial advantage to schools or organizations.

Leadership: Administrators, teachers or coaches, and players should be primarily concerned with the outcome of the program.

1. The administrator is directly responsible for:
  - a. Selecting qualified women to direct the program.
  - b. Providing facilities, equipment, and finances necessary to carry on the program.
  - c. Providing equal use of facilities and equipment for boys and girls.
  - d. Providing health safeguards.
  - e. Guiding publicity to emphasize the educational and recreational values of the program.
2. The teacher or coach is responsible for:
  - a. Encouraging skillful play for full enjoyment of the game.
  - b. Emphasizing the importance of trying to win fairly rather than "winning at any cost."
  - c. Establishing the attitude that defeat is not humiliating.

d. Carrying out the practice and establishing the concept of treating the opposing team with courtesy.

e. Emphasizing the importance of health and periodic examinations.

3. The player is responsible for her own conduct as shown through:

- a. Intelligent health practices.
- b. Courtesy, fair play, and good sportsmanship.
- c. Quality of leadership within her own group.
- d. Emotional control in all game situations.
- e. Playing to the best of her ability.

Health: Careful supervision of the health of all players must be provided.

1. Require an examination by a qualified physical at the beginning of each year of participation.

2. Require a written statement of approval for playing, by a qualified physician, following the serious illness of a player.

3. Prevent those girls from playing who should not play during their menstrual periods, and remove from the game players who suffer injuries or show signs of fatigue or undue emotional strain.

4. Make every effort to teach players to relax during the game and in rest periods.

5. Provide a healthful, safe, and sanitary environment for the conduct of athletic activities.

Sports Seasons and Practice Periods:

1. Plan a limited season for each sport so that a varied program may be offered during the year.

2. Offer more than one sport in each season whenever possible, and include individual, dual, and team sports and games.

3. Conduct practices for each sport over a period of time sufficient to meet the demands of the particular sport before formal competition begins.

a. Schedule not less than two practice periods a week of not more than one hour each day.

b. Schedule practice periods during the daytime hours for girls of high school age.

Types of Competition: The type of competition selected should be judged in terms of desirable outcomes, rather than by the method of organization.

1. Intramural (intraschool)--Competition between teams made up within the school, recreational group, club or organization. Team divisions should be formed from the natural units within the group, such as: classes, home-rooms, sororities, dormitories, business girls, married women, and other units.

2. Extramural (interschool, interclub, inter-organization)--Competition between teams representing schools, colleges, organizations, business groups, industrial teams, and adult groups. Several forms of extramural competition which have proved successful are:

a. Play Days--A type of organization particularly suited to girls of elementary and high school age. Teams made up of representatives from several groups are designated by names, colors, or other means, and play together in a variety of games and sports. Playday organization may be used with success with college or adult recreation groups.

b. Sport Days--A type of organization particularly suited to colleges, recreation centers, industrial teams, and similar groups. One or more sports may be included in the program. There is usually more than one team representing each organization participating in this form of competition.

c. Telegraphic Meets--Teams compete against each other by means of establishing records against time, or for score, while performing in their own locations. Such records are sent to a central committee for comparison, and each item is then ranked according to recorded performance. Archery, pistol and rifle, swimming events, and bowling are activities adaptable to this type of competition.

#### General Policies:

1. Select the members of all teams so that they play against those of approximately the same ability and maturity.

2. Arrange the schedule of games so that there will be no more than one highly competitive game a week for any one team or girl in any one sport.

3. Allow no player to participate in more than one full-length game or match in a vigorous activity, or its equivalent, in one day of organized competition.

4. Provide a program of competition for girls that is separate from that arranged for boys (eliminating such

events as double-header games), except in those activities in which boys and girls are encouraged to play together on mixed teams.

5. Discourage any girl from practicing with, or playing on a team for more than one group while competing in that sport during the same sport season.

6. Promote social events in connection with play-days, sport days, and all other forms of competition.

7. Have first-aid equipment and service available for immediate use during practices and games.

8. Secure written parental permission for girls of high school age to play on teams engaging in competition of any type with other groups.

9. Provide safe transportation.

a. Use only bonded carriers or provide for individual insurance.

b. Assign only the number of passengers to a carrier or car that is allowed by legal capacity.

c. Provide responsible chaperones for each carrier or car.

10. Make financial provision for adequate medical supervision, good equipment, qualified women officials, and similar needs.

11. Eliminate expensive awards.

12. Educate players concerning appropriate sport costumes.

13. Limit all extramural competition to a small geographical area.

Publicity: Good publicity should have as its aim the promotion of a better understanding on the part of the general public of the purposes, standards, and outcomes of the athletic program.

1. Stress the whole program rather than one activity; give each activity desirable and interesting publicity during its season.

2. Emphasize the achievement of the whole group rather than that of individuals.

3. Emphasize the recreational values of athletics rather than the winning of championships.

4. Cooperate with news reporters by giving and interpreting news that will educate the public toward an appreciation of the most desirable type of program for girls in athletic activities.

Education of Spectators: Educate spectators toward an appreciation of the game and its skills.

1. Arrange pre-season demonstration games. Explain fouls, current rule changes, and team plays.

2. Use various forms of publicity to establish interest and an understanding of the program.

3. Encourage recognition of skillful play by members of either team.

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<sup>109</sup>Charles E. Forsythe, The Administration of High School Athletics (New York: Prentice-Hall, Inc., 1948), pp. 366-367.

## APPENDIX B

The Constitution of the Illinois League of High  
School Girls' Athletic Associations, 1944

Until such time as the rules shall be amended, the following provisions shall govern the participation of members of the IHSA in the League program.

## Article I - Object

The object of the League shall be to stimulate interest in girls' athletics and gymnastics and to standardize and promote ideals of health and sportsmanship.

## Article II - Membership

Sec. 1. Local associations may be organized in any high school which is a member in good standing in the Illinois High School Association.

Sec. 2. Such local associations may become participating members in the League by meeting the following requirements:

- (1) Adopting the provisions governing the participation of members of the IHSA in the League program.
- (2) Securing the approval of the League Executive Committee upon a local constitution which is drafted in conformity with the outline given in the League Manual.

(3) Making application for participating membership using the League application blank.

(4) Adopting the Point System of the League,

OR

submitting for the approval of the League Executive Committee, a point system which meets the qualifications stated herewith:

(a) Such point system shall have been established and functioning for at least two years preceding application for participating membership in the Illinois League of High School Girls' Athletic Associations.

(b) The requirements to be fulfilled for all awards shall be comparable to those stated in the League Point System.



(c) Steps shall be taken toward a gradual change to the adoption of the Awards and Point System of the League, which change shall be completed within three years from date of participating membership.

Note of Explanation: This should not be construed to mean that a period of probation is necessary. On the contrary, local associations may be formed at any time.

(5) Paying the annual participating fee to the Treasurer.

Sec. 3. No local association shall permit girls to participate in interscholastic athletics, except in golf, tennis and archery. Interscholastic tennis, archery and golf shall be subject to the regulations found in the Appendix to the League Manual.

Sec. 4. Local associations may hold only play days (and other interscholastic activities which involve pupils from four or more schools) that are sanctioned by the Board of Directors of the IHSA and no pupil belonging to a local association may attend such activities unless they are sanctioned by the Board. No play days or other interscholastic activities requiring overnight trips will be sanctioned.

Sec. 5. Any local association failing to comply with any of the requirements of the League shall forfeit its participating membership.

### Article III - Meetings

Sec. 1. A meeting of delegates of the local associations shall be held once a year for the purpose of making recommendations to the Board of Directors of the IHSA and for conducting the general business of the League. This meeting shall be held at the time of the annual High School Conference at Champaign or in case no Conference is held, the Executive Committee of the League shall decide the time and place of the meeting.

Sec. 2. Each local association shall be entitled to one voting delegate to the annual meeting. This delegate shall be a teacher eligible to membership on the Executive Committee or the principal of the high school.

Sec. 3. Any other meeting may be called by a majority vote of the Executive Committee and shall be called upon petition of twenty participating members acting through their official representatives.

Sec. 4. Thirty days before any meeting, the Secretary shall notify all members of the exact time and place of meeting.

Sec. 5. Meetings of the Executive Committee may be called by the President.

#### Article IV - Quorum

Sec. 1. The official delegates present at the annual meeting shall constitute a quorum for the transaction of business.

Sec. 2. A two-thirds vote of all participating members shall be necessary for the transaction of business by correspondence.

Sec. 3. Two-thirds of the members of the Executive Committee shall constitute a quorum.

#### Article V - Officers

Sec. 1. The officers of the League shall consist of a President, a Vice President, a Secretary and five additional members of the Executive Committee. The Assistant Executive Secretary in charge of the League shall be appointed by the Board of Directors and she shall serve as Secretary of the League.

Sec. 2. The President, Vice President and three members at large shall be women actively engaged in teaching physical education to girls in high schools.

Sec. 3. The Executive Committee shall consist of the officers of the League, and the Secretary and the Executive Secretary of the Illinois High School Association.

#### Article VI - Election of Officers

Sec. 1. The President, Vice President and three members at large shall be elected at the regular annual meeting provided for in Article III to serve for three years.

Sec. 2. The President shall appoint a Nominating Committee which shall propose names of suitable candidates for various offices. Candidates may also be nominated from the floor.

Sec. 3. Any vacancies occurring on the Executive Committee shall be filled by the Executive Committee, except that a vacancy in the Presidency shall be filled by the

promotion of the Vice President, the latter's place being filled by appointment.

(1) The Vice President shall serve the unexpired term of the President.

(2) Officers appointed to fill vacancies on the Executive Committee shall serve only until the next Annual Meeting of the League, when a permanent member shall be elected to serve the unexpired term.

#### Article VII - Duties of Officers

Sec. 1. It shall be the duty of the President to preside at all meetings of the League and to see that all the business of the League is conducted in accordance with the provisions outlined by the Board of Directors of the IHSA. To assist in the conduct of this business, the President shall appoint from the women members of the Executive Committee the following sub-committees:

(1) A committee on points, of which one of the members at large shall be chairman.

(2) A committee on publicity, of which one of the other members at large shall be chairman.

(3) A committee on camps and play days, of which the Vice President shall be chairman.

Note: The President and the Secretary shall be members Ex-Officio of all committees.

Sec. 2. The committee on points shall:

(1) Decide technical questions.

(2) Pass on all suggestions for changes in the activities and point system before these are presented to the participating members for a vote.

Sec. 3. The committee on publicity shall:

(1) Take charge of publicity.

(2) Serve as correspondents to the INTERSCHOLASTIC.

Sec. 4. It shall be the duty of the committee on camps and play days to have charge of the details of the management of the summer camps and play days under the general supervision and management of the Secretary.

Sec. 5. The Vice President shall, in case of the resignation, absence or disability of the President, assume all the duties of the President; she shall serve as chairman of the committee on camps and play days.

Sec. 6. The Secretary shall:

- (1) Keep a careful record of all proceedings of the League and Executive Committee meetings.
- (2) Conduct all correspondence of the League not otherwise provided for.
- (3) Keep an accurate account of all receipts and expenditures of the League.
- (4) Check and keep a record of all League awards.
- (5) Return decisions on technical questions to local associations.
- (6) Attend to other duties prescribed by the Board of Directors of the IHSA.

Sec. 7. The Executive Committee shall serve as an Advisory Committee to the Board of Directors of the IHSA and shall make recommendations to the Board concerning the expenditure of funds, the requirements for membership in local associations, the number and kinds of medals and trophies to be awarded and to assist the Board in any other way it may deem advisable in conducting the general business of the League.

#### Article VIII - Fees

Sec. 1. The annual participation fee shall be based upon the enrollment of the school and shall be as follows:

\$1.50--schools whose total enrollment is 99 or less.

\$2.50--schools whose total enrollment is 100 through 299.

\$5.00--schools whose total enrollment is 300 or more.

Sec. 2. Annual participating fees are payable before December 1 of each year. A penalty of \$1.00 a month shall be assessed for late payment.

#### Article IX - Awards and Pins

Sec. 1. Each local association shall be permitted to give two awards. They shall consist of felt or chenille emblems of size and quality appropriate for attachment to sweaters.

Sec. 2. Two higher awards shall be granted by the League. 1600 points shall entitle the winner to the STATE LEAGUE AWARD, and 2000 points to the highest award which shall be known as the STATE LEAGUE EMBLEM. These awards are to be paid for by students winning them unless the local association provides otherwise.

Sec. 3. Any member of a local G.A.A. in good standing who has earned at least 50 points in some elective activity is entitled to purchase the State League Pin.

#### Article X - Amendments

The foregoing provisions governing the participation of member schools in the League program may be amended by the Board of Directors of the IHSA. It shall, however, be the policy of the Board to seek the advice and assistance of the Executive Officers of the League before making major changes in these provisions.

Note: Additional information concerning the League program will be found in the League Manual. Copies of the Manual may be secured upon request from the Illinois High School Association, 11 South LaSalle Street, Chicago 3, Illinois.

## APPENDIX C

Results on an Experiment for Coed Teams,  
New York State Education Department  
1970

Background

Should girls be allowed to play on boys' interschool athletic teams in selected noncontact sports? This was the question faced by the State Education Department in 1969 for which evidence was needed to support a valid answer.

The question had been raised intermittently over the last 10 years or so. The Department had received some requests to permit girls to compete on boys' teams in such sports as riflery, golf, and swimming. The requests were denied on the basis that Regulations of the Commissioner of Education prevented this type of competition and that consensus of leaders in physical education in the State and Nation indicated that such competition was not desirable. Although there was some grumbling about these decisions, they were more or less accepted. However, in early 1969 this traditional position was challenged for validity and on the basis of sex discrimination by a high school senior girl and her parents.

Faced with the need for valid supporting data, the Education Department gathered all the evidence it could find on the matter. Very little was reported in professional literature. In the limited number of experiences that came to its attention wherein girls competed on boys' teams (primarily at the college level), the only negative factor reported was that it was not yet socially acceptable for a girl to defeat a boy in athletic competition. Discussion with various medical personnel elicited a unanimous expression that there are no medical reasons to prohibit girls from competing on boys' teams in selected noncontact sports. Thus, it became clear that the Department had little or nothing to support its traditional position. It was then suggested that a moratorium be declared on a decision until some evidence could be gathered through experience. Thus, the experimental project came into being.

### The Experiment

The project was approved to run from March 1, 1969, through June 30, 1970. Participation by high schools, public and private, was on a voluntary basis but only those schools that applied to and were approved by the State Education Department were permitted to use girls on boys' teams. The Education Department waived the restrictive Regulations for the approved schools for the duration of the experiment. Boards of education were required to authorize the participation of girls on boys' teams in their high schools as well as the application for approval to participate in the project. Chief school officers were asked to agree to secure and transmit data as required by the Department to evaluate the project, provide for medical examinations for girls prior to the start of practice sessions and at the conclusion of the season, and assign a woman faculty member to attend practice sessions, supervise the girls' locker room, and accompany the team on all trips. The Department did not specify what sports would be approved but merely stated that requests would be considered for activities that are deemed not to involve physical contact, with the decision resting with the Department.

The primary purposes of the project were to (1) ascertain if any administrative, supervisory, or other conditions are inherent in an action program of this type that would make it detrimental for girls to participate on boys' teams, and (2) secure information from persons directly involved concerning their experiences and opinions on the matter. The data gathered were used by an evaluation committee that met in July 1970, as the basis for its recommendations to the Department on whether or not girls should be allowed on boys' teams in the future.

During the 16 months of the experiment, 100 different schools were approved for the project. Most of them participated in one sport. One high school, however, was involved in six activities (golf, tennis, swimming, skiing, gymnastics, and track).

The 100 schools participated in 10 different sports: bowling, cross-country, fencing, golf, gymnastics, riflery, skiing, soccer, tennis, and track. Tennis and golf were the most popular sports in the experiment.

### What Are The Results

One of the purposes of the experiment was to find out if any problems would be raised by allowing girls to compete on boys' teams. Of the coaches, women supervisors, principals, directors, and girl participants who were asked the question, the vast majority reported there were no problems. When problems were cited, the most frequently mentioned were additional cost for women supervisors, unavailability of women supervisors, providing locker room and shower supervision, and refusal of some opponents to compete against a girl. It is interesting to note that one director listed as a problem the boys' hesitancies about having a girl on the team which, he said, changed quickly to a positive reaction after the girl earned her position.

In regard to differences in competition, more than half of the coaches said they observed no differences in the way boys competed against girls as compared to other boys. Some felt the boys played their hardest, some did not. Most of the boys stated there was no difference in playing against a girl, although half of them felt there was more than the usual pressure to win. The few who reported a difference said, "None, except you feel a little superior," or they felt a stronger urge to win or that girls were weaker or that language and behavior improved. Every single one of the girls said she thought the boy played his best against her both in practice and in game situations. Ninety-four percent of the women supervisors indicated they did not observe any evidence of girls being under undue stress in competing against boys.

What did the boys have to say about their experiences? They overwhelmingly believe that competing against a girl is not harmful physically, emotionally, and socially except that a few feel there is apt to be some slight emotional pressure or tenseness. After competing against a girl, the vast majority of boys said that teammates, coaches, and nonteam boys and girls treated them the same as before. However, some laughter and teasing was naturally involved. Slightly more than half of the boys said they would rather compete against boys, 13 percent said girls, and a third of them reported they had no preference. Some of their opinions



and comments were: girls are too emotional, boys are more competitive, and boys can be freer in action and words. Here's a good one: "Girls are more enjoyable."

What about the girls? What did they say about playing on boys' teams? About 3 out of 5 girls thought that boys behaved differently at practice when they were around, especially in behavior and language. Only 5 percent of the girls felt that practice sessions were too strenuous, and a few of these said they were so only on occasion.

The vast majority of girls (85 percent) felt they were accepted by the boys as team members. Nine out of 10 girls reported they felt they were a part of the team rather than merely individual players. Two-thirds of the girls said that when they won, boys on the team did not treat them differently. Similarly, there was little or no difference in the boys' actions when the girls lost. Nine out of 10 girls said they were not treated any differently by boys and girls not on the team, teachers, and the community as a whole. Any slight difference was in the form of more interest, attention, respect, and friendliness.

Most of the girls said that being a team member did not affect their school work, social activities, or home life.

Two-thirds of the girls would prefer to be on a boys' team. The principal reasons cited for this preference are the greater challenge, higher level of skill, and more opportunity for competitive participation. Half of the girls said they would rather compete against boys, 30 percent of them said girls, and 1 out of 5 had no preference. Seventy percent felt there were no other girls in their schools who could challenge them in athletic ability and slightly more believed other schools lacked this level of competition for them.

The girls were unanimous in feeling that competing against a boy was not harmful to them physically, emotionally, and/or socially.

It was somewhat surprising to note that the vast majority of parents said they had no concern about their daughters being members of boys' athletic teams. Of those

who did express some concerns, the main worry was how the boys would accept the girls. Other worries were: "Beating a boy," "Not losing identity as a girl," "Competition," and "No interference with homework."

Other reactions on the effect on their daughters included the following:

- Practically all said it had not affected schoolwork.
- Home life was not changed materially.
- An increase in their social life was reported by about a fourth of the parents.
- Better endurance and physical condition were evident.
- More mature and improved in outlook were frequently mentioned.

Ninety percent of the parents said they felt these changes were desirable.

When asked whether they preferred their daughters to be members of girls' teams, 39 percent of the parents said girls; 20 percent indicated boys; 34 percent reported no preference; and 7 percent said both.

Practically all women physical education teachers who responded stated that girls who participated on boys' teams did not experience problems with their peers in class. A few felt that newspaper coverage made it difficult for some girls. Most of these teachers indicated that the girls' extraclass activities were not affected by allowing girls to play on boys' teams. On the question of comparable competition for these talented girls, 72 percent of these physical educators felt such competition did not exist in their schools, but 55 percent thought comparable competition could be found on girls' teams in other schools.

Seventy-two percent of the opposing coaches said they had no boys who did not want to compete against a girl. Of those who did, the reason given for this was fear of losing.

What were some of the experiences of coaches who had girls on their teams? Did they feel that boys played their

hardest against girls? Yes, said 43 percent; no, said 32 percent; and no difference in 25 percent of the cases. Twelve percent of the coaches reported that opposing schools refused to play them when they found out that a girl would be on the team.

Should the practice of allowing girls to compete on boys' athletic teams be continued? Eighty percent of the principals, directors, women physical educators, coaches, and physicians involved in the experiment voted in favor of continuing the practice, either as an experiment or as legal policy. Slightly more than 90 percent of the boy team members, girl participants, parents, coaches, and opposing coaches also favored continuation of the practice. Of this group:

- Eighty-four percent of the boy team members said girls should be allowed on their teams.
- Ninety-nine percent of the girl participants (all but one girl) would want to be on a boys' team again.
- Ninety-seven percent of the girls would advise other girls to go out for boys' teams.
- Ninety-three percent of the parents recommend that highly talented girls be allowed on boys' varsity teams.
- Seventy-four percent of the opposing coaches would want girls on their teams if they were good enough.
- Eighty-six percent of the coaches would have a girl on their teams.

## 1976 SPORTS PARTICIPATION SURVEY

284

Compiled By

THE NATIONAL FEDERATION OF STATE HIGH SCHOOL ASSOCIATIONS

Federation Place - P.O. Box 98 - Elgin, Ill. 60120

1976

Based on Competition at the Interscholastic Level

	BOYS		GIRLS	
	Number of Schools	Number of Participants	Number of Schools	Number of Participants
ARCHERY	48	550	171	1,735
BADMINTON	595	7,104	1,205	18,110
BASEBALL	13,394	399,900	33	1,038
BASKETBALL	18,874	688,410	14,931	387,507
BOWLING	811	9,478	676	8,136
CROSS COUNTRY	10,018	204,087	2,631	30,798
CURLING	374	4,095	336	3,363
DECATHLON	128	916	-----	-----
DRILL TEAMS	41	1,417	352	9,371
FENCING	64	1,018	36	333
FIELD HOCKEY	160	936	1,675	59,944
FOOTBALL - 11 man	14,740	1,058,533	-----	-----
8 man	552	12,295	-----	-----
6 man	3	40	-----	-----
9 man	143	4,178	-----	-----
12 man	73	2,553	-----	-----
GOLF	9,954	154,457	2,596	32,190
GYMNASTICS	1,464	34,516	3,379	79,461
ICE HOCKEY	646	17,544	38	269
LACROSSE	251	6,487	155	5,318
PENTATHON	52	75	-----	-----
RIFLERY	297	4,477	101	1,279
RUGBY	10	250	-----	-----
SKIING	348	8,662	271	5,367
SOCCER	4,195	112,743	599	11,534
SOFTBALL	1,154	14,816	6,496	133,458
SWIMMING	4,198	125,234	3,285	85,013
TABLE TENNIS	264	2,033	164	1,180
TENNIS	8,421	143,970	6,991	112,166
TRACK & FIELD (Indoor)	1,344	46,319	565	17,142
TRACK & FIELD (Outdoor)	16,279	644,813	12,636	395,271
VOLLEYBALL	2,215	49,677	10,607	245,032
WATER POLO	367	12,187	2	24
WEIGHTLIFTING	56	1,144	-----	-----
WRESTLING	9,288	334,107	-----	-----

## BOYS

STATE	Archery		Badminton		Baseball		Basketball	
	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.
ALABAMA	0	0	0	0	340	6,750	417	9,500
ALASKA							52	1,250
ARIZONA	0	0	0	0	140	4,760	140	4,902
ARKANSAS	0	0	0	0	139	2,000	390	15,500
CALIFORNIA					906	36,950	921	40,159
CANADA								
Alberta	0	0	145	1,700	12	200	190	3,200
Manitoba	2	22	137	3,501	33	868	130	3,720
British Col.								
New Brunswick			46	575	10	185	48	585
Newfoundland	0	0	111	320	0	0	111	1,102
Nova Scotia								
Ontario								
P. E. I.	0	0	21	182			18	211
Saskatchewan								
COLORADO	0	0	0	0	180	5,580	249	10,000
CONNECTICUT	0	0	0	0	179	5,901	179	5,287
DELAWARE	0	0	0	0	57	1,960	75	2,658
DIST. OF COL.					15	320	15	300
FLORIDA	0	0	0	0	402	10,864	490	15,527
GEORGIA	0	0	0	0	364	12,100	373	15,300
HAWAII					47	1,061	50	1,518
IDAHO	0	0	0	0	58	1,444	125	3,678
ILLINOIS	0	0	0	0	589	12,369	779	38,950
INDIANA					457	13,400	506	18,200
IOWA	0	0	0	0	483	9,660	502	15,060
KANSAS	0	0	0	0	63	1,260	384	11,520
KENTUCKY	0	0	0	0	293	7,600	315	9,475
LOUISIANA	0	0	0	0	278	6,950	428	9,416
MAINE					165	3,470	130	4,622
MARYLAND					140	3,732	140	4,098
MASSACHUSETTS								
MICHIGAN	0	0	0	0	648	27,864	704	38,720
MINNESOTA					453	13,082	517	22,462
MISSISSIPPI	0	0	0	0	216	4,500	290	4,380
MISSOURI					385	11,132	757	30,496
MONTANA	0	0	0	0	0	0	201	8,600
NEBRASKA	0	0	0	0	35	766	368	7,499
NEVADA					40	1,200	53	1,950
NEW HAMPSHIRE	0	0	0	0	82	2,200	82	2,600
NEW JERSEY	0	0	0	0	421	18,945	423	19,035
NEW MEXICO	0	0	0	0	78	2,300	124	4,000
NEW YORK	46	488	135	826	745	19,220	763	21,286
N. CAROLINA	0	0	0	0	310	7,750	321	9,630
N. DAKOTA	0	0	0	0	48	780	267	9,846
OHIO	0	0	0	0	904	25,725	1,517	49,431
OKLAHOMA	0	0	0	0	374	8,228	489	9,780
OREGON	0	0	0	0	200	9,000	240	8,640
PENN.	0	0	0	0	601	13,222	1,090	32,700
RHODE IS.					43	1,160	44	862

STATE	Archery		Badminton		Baseball		Basketball	
	No. Schools	No. Partici	No. Schools	No. Partici	No. Schools	No. Partici	No. Schools	No. Partici
SOUTH CAROL.	0	0	0	0	232	6,800	232	8,800
SOUTH DAKOTA	0	0	0	0	0	0	209	5,250
TENNESSEE	0	0	0	0	294	7,056	366	10,248
TEXAS	0	0	0	0	786	32,000	1126	64,000
UTAH					77	1,958	90	2,643
VERMONT		40				1,434		1,624
VIRGINIA	0	0	0	0	270	9,890	286	11,591
WASHINGTON	0	0	0	0	291	8,937	325	11,778
W. VIRGINIA	0	0	0	0	139	3,796	329	9,668
WISCONSIN	0	0	0	0	369	11,501	426	31,393
WYOMING	0	0	0	0	0	0	74	3,650
PHILIPPINES					3	70	4	110

STATE	BOYS							
	Bowling		Cross Country		Curling		287 Decathlon	
	No. Schools	No. Partici	No. Schools	No. Partici	No. Schools	No. Partici	No. Schools	No. Partici
ALABAMA	0	0	50	600	0	0	35	640
ALASKA			24	1,000				
ARIZONA			92	1617				
ARKANSAS	0	0	85	1275	0	0	0	0
CALIFORNIA			746	21,987				
CANADA								
Alberta	3	30	70	775	180	1,080	0	0
Brisish Col.								
Manitoba	16	552	64	844	121	2460	0	0
New Brunswick			18	140	26	104		
Newfoundland	0	0	111	344				
Nova Scotia								
Ontario								
P.E.I.	0	0	39	201	22	88	0	0
Saskatchewan								
COLORADO	0	0	112	2,330	0	0	0	0
CONNECTICUT	0	0	137	2,868	0	0	30	43
DELAWARE	0	0	40	725	0	0	0	0
DIST. OF COL.			15	450				
FLORIDA	0	0	225	3,175	0	0	33	149
GEORGIA	0	0	115	2,000	0	0	0	0
HAWAII	30	353	39	758				
IDAHO	0	0	40	599	0	0	0	0
ILLINOIS	0	0	496	13,492	0	0	0	0
INDIANA			475	7,800				
IOWA	163	815	228	5,700	0	0	0	0
KANSAS	0	0	219	4,380	0	0	0	0
KENTUCKY	0	0	166	2,500	0	0	0	0
LOUISIANA	0	0	87	1,740	0	0	0	0
MAINE	3	120	95	554				
MARYLAND			113	1,422				
MASSACHUSETTS								
MICHIGAN	0	0	553	11,060	0	0	0	0
MINNESOTA			286	4,611	19	255		
MISSISSIPPI	0	0	0	0	0	0	0	0
MISSOURI			259	8,493				
MONTANA	0	0	95	1,250	0	0	0	0
NEBRASKA	0	0	133	842	0	0	0	0
NEVADA	11	120	33	660				
NEW HAMPS.	0	0	45	1,100	0	0	0	40
NEW JERSEY	197	3940	376	11,280				
NEW MEXICO	0	0	57	1,680	0	0	0	0
NEW YORK	362	3,196	566	8,488	0	0	0	0
NO CAROLINA	0	0	110	1,650	0	0	0	0
NO DAKOTA			57	907	6	108		
OHIO	0	0	746	12,273	0	0	0	0
OKLAHOMA	0	0	56	280	0	0	0	0
OREGON	0	0	180	3,600	0	0	0	0
PENN.	0	0	471	9,420	0	0	0	0
RHODE IS.			41	731				

STATE	Bowling		Cross Country		Curling		Decathlon	
	No. Schools	No. Partici	No. Schools	No. Partici	No. Schools	No. Partici	No. Schools	No. Partici
SOUTH CAROL.	16	235	85	1,700	0	0	0	0
SO. DAKOTA	8	80	125	2,000	0	0	0	0
TENNESSEE	0	0	122	854	0	0	30	44
TEXAS	0	0	902	27,000	0	0	0	0
UTAH			60	851				
VERMONT		25		429				
VIRGINIA	0	0	175	2,624	0	0	0	0
WASHINGTON	0	0	215	3,942	0	0	0	0
WEST. VIRGINIA	0	0	58	1,175	0	0	0	0
WISCONSIN	0	0	288	5,381	0	0	0	0
WYOMING	0	0	19	570	0	0	0	0
PHILIPPINES	2	12	4	60				



[illegible]



STATE	BOYS							
	Football	8-man	6-man		9-man		291 12-man	
	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.
ALABAMA	0	0	0	0	0	0	0	0
ALASKA								
ARIZONA	18	315						
ARKANSAS								
CALIFORNIA								
CANADA								
Alberta					20	300	50	1,500
B ritish Col.								
Manitoba					27	1,158	12	721
New Brunswick							7	217
Newfoundland								
Nova Scotia								
Ohtario								
P.E I.							4	115
Saskatchewan								
COLORADO	33	925	3	40				
CONNECTICUT								
DELAWARE								
DIST. FO COL.								
FLORIDA								
GEORGIA								
HAWAII								
IDAHO	14	394						
ILLINOIS								
INDIANA								
IOWA								
KANSAS	52	1,040						
KENTUCKY								
LOUISIANA								
MAINE								
MARYLAND								
MASSACHUSETTS								
MICHIGAN	0	0						
MINNESOTA								
MISSISSIPPI	0	0						
MISSOURI	6	232						
MONTANA	65	1,400						
NEBRASKA	90	1,333						
NEVADA "	9	190						
NEW HAMPS.	0	0						
NEW JERSEY								
NEW MEXICO	0	0						
NEW YORK	29	576						
NO. CAROLINA	0	0						
NO. DAKOTA					74	2170		
OHIO	0	0						
OKLAHOMA	28	560						
OREGON	37	555						
PENN.	0	0						
RHODE IS								

STATE	Football 8-man		6-man		9-man		12-man	
	No Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.
SO. CAROLINA	0	0	0	0	0	0	0	0
SO. DAKOTA	67	1,350	0	0	22	550	0	0
TENNESSEE	0	0	0	0	0	0	0	0
TEXAS	65	2,500	0	0	0	0	0	0
UTAH								
VERMONT								
VIRGINIA	0	0	0	0	0	0	0	0
WASHINGTON	31	695	0	0	0	0	0	0
W. VIRGINIA	0	0	0	0	0	0	0	0
WISCONSIN	0	0	0	0	0	0	0	0
WYOMING	8	230	0	0	0	0	0	0

[illegible]



STATE	Golf		Gymnastics		Ice Hockey		Lacrosse 295	
	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.
ALABAMA	200	700						
ALASKA					9	300		
ARIZONA	77	795	20	326				
ARKANSAS	130	1,300						
CALIFORNIA	639	8,642	111	2,609				
CANADA								
Alberta	35	210	20	160	6	100		
British Col								
Manitoba	72	1,474	48	1,206	37	1,242	18	592
New Bruswick					33	549		
Newfoundland								
Nova Acoria								
Ontario								
P.E I.					13	221		
Saskatchewan								
COLORADO	94	11,000	53	1,700	16	320		
CONNECTICUT	136	1,487	23	353	47	1,131		
DELAWARE	30	360	1	25				
DIST. OF COL.	10	150						
FLORIDA	300	2,475	25	263				
GEORGIA	160	2,500	73	2,200				
HAWAII	10	482	2	14				
IDAHO	52	586						
ILLINOIS	469	7,035	77	3,157				
INDIANA	392	4,900	37	700				
IOWA	356	7,120	18	270				
KANSAS	185	2,775	28	560				
KENTUCKY	194	2,330	15	230				
LOUISIANA	110	995	30	520				
MAINE	63	621	10	115	8	227		
MARYLAND	92	796	48	612			47	1,950
MASSACHUSETTS								
MICHIGAN	502	9,036	34	782	97	2,134		
MINNESOTA	327	5,198	63	1,227	147	5,131		
MISSISSIPPI								
MISSOURI	225	3,761	12	287				
MONTANA	49	950	20	250				
NEBRASKA	61	1,243	20	250				
NEVADA	28	420	5	70				
NEW HAMPS.	30	350			20	600		
NEW JERSEY	307	3,070	52	3,120	36	900	34	850
NEW MEXICO	43	525	12	250				
NEW YORK	514	6,152	255	5,810	73	1,334	147	2,970
NO. CAROLINA	172	1,720						
NO. DAKOTA	66	813			16	520		
OHIO	705	7,907	91	2,184	34	933		
OKLAHOMA	119	952						
OREGON	120	960	44	880				
PENN.	481	7,215	74	1,480				
RHODE IS.	37	323			29	861		

STATE	Golf		Gymnastics		Ice Hockey		Lacrosse	
	No. School	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.
SO. CAROLINA	160	1,100						
SO. DAKOTA	55	550	4	40				
TENNESSEE	200	2,200						
TEXAS	986	28,000						
UTAH	63	773						
VERMONT		218		83		365		
VIRGINIA	185	1,480	50	500			5	125
WASHINGTON	187	2,554	36	772				
W. VIRGINIA	205	1,605	5	125				
WISCONSIN	292	6,399	41	1,246	25	676		
WYOMING	25	220	7	140				
PHILIPPINES	4	30						



STATE	Pentathlon		Riflery		Rugby		Skiing	
	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.
ALABAMA							16	300
ALASKA							2	9
ARIZONA			16	225				
ARKANSAS								
CALIFORNIA							23	609
CANADA								
Alberta					10	250	4	40
British Col								
Manitoba								
New Brunswick								
Newfoundland								
Nova Scotia								
Ontario								
P.E.I.								
Saskatchewan								
COLORADO	52	75					10	300
CONNECTICUT								
DELAWARE								
DIST. OF COL.								
FLORIDA								
GEORGIA			90	1,800				
HAWAII			11	187				
IDAHO								
ILLINOIS								
INDIANA								
IOWA								
KANSAS								
KENTUCKY			17	170				
LOUISIANA								
MAINE							33	548
MARYLAND								
MASSACHUSETTS								
MICHIGAN							83	2,573
MINNESOTA							60	1,535
MISSISSIPPI								
MISSOURI								
MONTANA								
NEBRASKA								
NEVADA							6	100
NEW HAMPS.								
NEW JERSEY							23	460
NEW MEXICO								
NEW YORK			86	1,036			78	1,658
NO. CAROLINA								
NO. DAKOTA								
OHIO								
OKLAHOMA								
OREGON								
PENN.			77	1,035				
RHODE IS.								

STATE	Pentathlon		Riflery		Rugby		Skiing	
	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.
SO. CAROLINA								
SO. DAKOTA								
TENNESSEE								
TEXAS								
UTAH								
VERMONT				24				330
VIRGINIA								
WASHINGTON								
W. VIRGINIA								
WISCONSIN								
WYOMING							10	200
PHILLIPINES								

## BOYS'

STATE	Soccer		Softball		Swimming		Table Tennis	
	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.
ALABAMA					40			
ALASKA					14	480		
ARIZONA					34	701		
ARKANSAS					75	750		
CALIFORNIA	466	18,420			556	19,174		
CANADA								
Alberta	50	750			22	390		
British Col.								
Manitoba	88	2,890			13	247	48	1,156
New Brunswick	33	650			14	175		
Newfoundland	111	652	111	461			111	232
Nova Scotia								
Ontario								
P.E.I.	17	305	11	132			7	30
Saskatchewan								
COLORADO	41	1,025			71	2,130		
CONNECTICUT	136	3,988			109	2,220		
DELAWARE	39	1,261			18	393		
DIST. OF COL.	10	220			5	125		
FLORIDA	126	4,295			100	3,619		
GEORGIA	132	4,000			115	3,500		
HAWAII	20	729			32	724		
IDAHO								
ILLINOIS	120	4,220			222	8,880		
INDIANA					158	4,200		
IOWA					51	1,530		
KANSAS					25	500		
KENTUCKY					52	1,275		
LOUISIANA	14	350			28	160		
MAINE	72	2,203			24	640		
MARYLAND	121	3,896			20	400		
MASSACHUSETTS								
MICHIGAN	35	1,085			229	8,244		
MINNESOTA	43	3,107			124	3,462		
MISSISSIPPI								
MISSOURI	106	3,167	50	585	70	1,721		
MONTANA					10	250		
NEBRASKA					27	405		
NEVADA	11	250			6	180		
NEW HAMPS.	62	2,000						
NEW JERSEY	314	18,840			103	4,120		
NEW MEXICO					16	320		
NEW YORK	556	16,140	582	8,138	262	5,964	98	615
NO. CAROLINA	38	760			30	750		
NO. DAKOTA					9	225		
OHIO	110	3,515			192	4,346		
OKLAHOMA					40	480		
OREGON	80	1,600			75	1,500		
PENN.	272	5,440			220	4,840		
RHODE IS.	29	869			10	236		

STATE	Soccer		Softball		Swimming		Table Tennis	
	No. Schools	NO. Partici.	No. Schools	No. Partici.	NO. Schools	No. Partici.	NO. Schools	No. Partici.
SO. CAROLINA	40	750			8	250		
SO. DAKOTA					6	125		
TENNESSEE								
TEXAS			400	5,500	700	28,000		
UTAH	17	555			30	816		
VERMONT		1,382				10		
VIRGINIA	50	1,250			32	640		
WASHINGTON	72	2,479			82	2,026		
W. VIRGINIA					5	127		
WISCONSIN					92	3,409		
WYOMING					20	540		
PHILIPPINES	4	100			2	35		

STATE	BOYS							
	Tennis		Track (Indoor)		Track (Outdoor)		Volleyball	
	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.
ALABAMA	250	700	85	2,150	300	2,900		
ALASKA	6	90			38	1,100		
ARIZONA	85	1,291			131	4,757		
ARKANSAS	200	1,400	15	400	355	12,000		
CALIFORNIA	745	17,721			856	52,188		
CANADA								
Alberta	4	32	4	80	145	2,700	165	2,900
British Col.								
Manitoba	3	90			127	4,003	145	4,534
New Brunswick					31	700	38	570
Newfoundland							111	992
Nova Scotia								
Ontario								
P.E.I.					43	328	13	130
Saskatchewan								
COLORADO	83	1,500			237	11,850		
CONNECTICUT	138	2,145	63	1,101	158	6,645		
DELAWARE	48	766	29	654	58	2,075		
DIST. OF COL.	10	150	12	360	15	450		
FLORIDA	266	3,067			384	13,677		
GEORGIA	180	2,000			350	11,000		
HAWAII					31	1,903	31	421
IDAHO	32	1,047			119	2,956		
ILLINOIS	340	7,820			691	30,404		
INDIANA	283	4,300			496	17,900		
IOWA	101	1,515			486	24,300		
KANSAS	111	1,665	256	12,800	383	19,150		
KENTUCKY	115	1,200			235	7,100		
LOUISIANA	133	532			335	4,030		
MAINE	33	433	22	745	89	2,653	21	331
MARYLAND	95	1,075	90	2,296	121	4,085	6	100
MASSACHUSETTS								
MICHIGAN	382	10,060			672	29,568		
MINNESOTA	181	3,797			485	15,714		
MISSISSIPPI	82	1,230			247	5,000		
MISSOURI	186	3,761	102	5,105	586	23,479	3	55
MONTANA	15	155			201	7,600		
NEBRASKA	39	511			362	6,493		
NEVADA	28	530			53	3,975		
NEW HAMPS.	30	300	20	400	45	2,000	13	130
NEW JERSEY	321	6,420	195	9,750	369	22,140	6	120
NEW MEXICO	46	500			114	3,500		
NEW YORK	520	6,840	265	5,800	641	19,978	607	9,605
NO. CAROLINA	163	2,445			252	7,560		
NO. DAKOTA	20	344			218	5,750		
OHIO	460	7,575			1365	55,473		
OKLAHOMA	87	696			312	6,240	109	1,308
OREGON	88	704			230	11,500		
PENN.	316	4,740			759	22,770	120	2,400
RHODE IS.	34	514	22	835	40	1,387		

STATE	Tennis		Track (Indoor)		Track (Outdoor)		Volleyball	
	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.
SO. CAROLINA	160	1,600	10	300	205	8,000		
SO. DAKOTA	22	225	6	125	207	5,500		
TENNESSEE	168	3,024			203	7,130		
TEXAS	1099	25,000			1126	76,000	780	24,000
UTAH	76	991			88	3,127		
VERMONT		206		14		657		110
VIRGINIA	176	1,760	148	3,404	275	9,036		
WASHINGTON	216	4,188			312	10,762		
W. VIRGINIA	52	547			217	8,494		
WISCONSIN	151	4,638			404	25,386	43	1,683
WYOMING	8	100			74	1,660		
PHILIPPINES	4	30			3	80	4	60

STATE	BOYS								303
	Water Polo		Weight Lifting		Wrestling		Other Sports		
	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.	
ALABAMA					70	650			
ALASKA					32	1,070			
ARIZONA					138	3,925			
ARKANSAS									
CALIFORNIA	317	11,164			657	26,780			
CANADA									
Alberta	2	25			70	800			
British Col									
Manitoba	2	13			19	763			
								12 C C Skiing	
							2	279 Judo	
							2	300 Paddleball	
							2	Ringette	
							4	52 Speed Skating	
							6	90 Trampoline	
							2	15 W. Training	
							87	2,359 Fastball	
New Brunswick					7	105			
Newfoundland						137			
Nova Scotia									
Ontario									
P.E.I.					25	278	21	88 Speed Skating	
Saskatchewan									
COLORADO					189	7,200			
CONNECTICUT					82	2,780			
DELAWARE					61	2,241			
DIST. OF COL.									
FLORIDA			56	1,144	207	6,449			
GEORGIA					225	6,800			
HAWAII	5	93			32	1,135			
IDAHO					83	2,534			
ILLINOIS					438	21,900			
INDIANA					387	12,000			
IOWA					313	12,520			
KANSAS					159	4,770			
KENTUCKY					69	1,950			
LOUISIANA					34	292			
MAINE					29	631			
MARYLAND					123	3,552			
MASSACHUSETTS									
MICHIGAN	3	60			455	18,205			
MINNESOTA					377	12,626			
MISSISSIPPI									
MISSOURI	18	530			239	12,418			
MONTANA					87	2,500			
NEBRASKA					201	3,728			
NEVADA	13	180			34	1,340			
NEW HAMPS.					13	400			
NEW JERSEY					351	14,040			
NEW MEXICO					43	600			

STATE	Water Polo		Weight Lifting		Wrestling		Other Sports	
	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.
NEW YORK					554	18,228	5	86 Crew
							14	138 Handbal:
NO. CAROLINA					152	3,952		
NO. DAKOTA					62	2,216		
OHIO	14	122			886	31,469		
OKLAHOMA					101	1,818		
OREGON					165	8,250		
PENN.					781	31,240		
RHODE IS.					28	994		
SO. CAROLINA					100	1,200		
SO. DAKOTA					107	2,700		
TENNESSEE					97	2,716		
TEXAS								
UTAH					80	2,989		
VERMONT						300		
VIRGINIA					170	6,686		
WASHINGTON					244	8,930		
W. VIRGINIA					85	1,746	4	83 Rowing
WISCONSIN					378	20,084		
WYOMING					45	1,350		
PHILIPPINES					4	120		



## GIRLS

305

STATE	Archery		Badminton		Baseball		Basketball	
	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.
ALABAMA	32	200	85	465			50	900
ALASKA							25	350
ARIZONA	35	294	43	674			69	1,756
ARKANSAS							325	6,000
CALIFORNIA	9	145	303	6,696			809	19,230
CANADA								
Alberta			157	1,820			185	3,050
British Co.								
Manitoba	2	7	137	3,084	33	1,038	130	3,303
New Brunswick			46	575			55	690
Newfoundland			111	291			111	900
Nova Scotia								
Ontario								
P.E.I.			21	156			23	265
Saskatchewan								
COLORADO							218	6,600
CONNECTICUT			31	170			161	2,130
DELAWARE							65	1,970
DIST. OF COL.							12	240
FLORIDA							346	5,658
GEORGIA							365	15,000
HAWAII							35	746
IDAHO							110	2,334
ILLINOIS	43	215	135	945			522	8,352
INDIANA							449	10,200
IOWA								
KANSAS							368	11,040
KENTUCKY								
LOUISIANA							260	5,200
MAINE							120	2,768
MARYLAND			11	264			140	3,147
MASSACHUSETTS								
MICHIGAN			11	121			685	18,077
MINNESOTA							490	14,388
MISSISSIPPI							277	5,186
MISSOURI							587	18,148
MONTANA							170	5,000
NEBRASKA							287	4,751
NEVADA							48	960
NEW HAMPS.							82	2,000
NEW JERSEY							409	12,270
NEW MEXICO							117	3,000
NEW YORK	44	826	77	2,109			678	14,100
N. CAROLINA							310	6,200
N. DAKOTA							258	6,661
OHIO	6	48	7	89			1052	23,144
OKLAHOMA							488	7,320
OREGON							186	4,650
PENN.							811	24,330
Rhode Island							38	752

STATE	Archery		Badminton		Baseball		Basketball	
	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.
SO. CAROLINA							232	7,200
SO. DAKOTA							206	5,150
TENNESSEE							348	9,744
TEXAS							946	46,000
UTAH							73	1,368
VERMONT								1,212
VIRGINIA							272	5,502
WASHINGTON			30	651			320	8,081
W. VIRGINIA							155	3,375
WISCONSIN							373	14,726
WYOMING							71	2,150
PHILIPPINES							4	60

STATE	Bowling		GIRLS Cross Country		Curling		Decathlon	
	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.
ALABAMA	30	225	40	240				
ALASKA			24	500				
ARIZONA			15	141				
ARKANSAS								
CALIFORNIA	30	484	143	1,292				
CANADA								
Alberta	3	36	65	620	170	1,020		
British Col.								
Manitoba	16	604	64	628	121	2,163		
New Brunswick			10	70	27	108		
Newfoundland			111	274				
Nova Scotia								
Ontario								
P.E.I.			32	175	18	72		
Saskatchewan								
COLORADO								
CONNECTICUT			40	496				
DELAWARE								
DIST. OF COL.								
FLORIDA			135	1,084				
GEORGIA			50	400				
HAWAII	22	301	36	410				
IDAHO			25	208				
ILLINOIS	200	2,000	5	60				
INDIANA			6	100				
IOWA								
KANSAS								
KENTUCKY								
LOUISIANA			11	78				
MAINE								
MARYLAND			80	346				
MASSACHUSETTS								
MICHIGAN	11	135	42	610				
MINNESOTA			123	1,284				
MISSISSIPPI								
MISSOURI								
MONTANA			70	650				
NEBRASKA			2	6				
NEVADA	11	140						
NEW HAMPS.			25	500				
NEW JERSEY	105	1,050	115	1,725				
NEW MEXICO								
NEW YORK	194	2,450	160	1,908				
NO. CAROLINA								
NO. DAKOTA			4	19				
OHIO	17	248	84	1,008				
OKLAHOMA			12	52				
OREGON			150	2,250				
PENN.			79	1,580				
RHODE IS.			22	350				

STATE	Bowling		Cross Country		Curling		Decathlon	
	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.
SO. CAROLINA	16	200	2	25				
SO. DAKOTA	8	80	75	750				
TENNESSEE			64	448				
TEXAS			458	8,500				
UTAH								
VERMONT		15		209				
VIRGINIA			50	119				
WASHINGTON	11	156	148	1,272				
W. VIRGINIA								
WISCONSIN			48	351				
WYOMING			2	15				
PHILIPPINES	2	12	4	45				

STATE	Drill Teams		Fencing		Field Hockey		Golf	
	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.
ALABAMA							90	250
ALASKA								
ARIZONA		178					16	147
ARKANSAS							25	100
CALIFORNIA			9	64	158	4,725	25	196
CANADA								
Alberta							30	95
British Col.								
Manitoba					49	907	72	478
New Brunswick					10	200		
Newfoundland								
Nova Scotia								
Ontario								
P.E.I.					16	240		
Saskatchewan								
COLORADO								
CONNECTICUT					83	2,700		
DELAWARE					42	1,572		
DIST. OF COL.							6	48
FLORIDA							108	508
GEORGIA	50	2,500						
HAWAII							7	21
IDAHO								
ILLINOIS					59	1,239	69	690
INDIANA							90	850
IOWA								
KANSAS							53	795
KENTUCKY							75	900
LOUISIANA							11	45
MAINE					44	1,903	20	66
MARYLAND	1	17			87	2,332	92	34
MASSACHUSETTS								
MICHIGAN					26	602	137	1,375
MINNESOTA							102	1,139
MISSISSIPPI								
MISSOURI					42	1,144	89	2,491
MONTANA							40	650
NEBRASKA							39	214
NEVADA	45	1,125					23	276
NEW HAMPS.					55	1,200		
NEW JERSEY			18	180	237	9,480	30	300
NEW MEXICO							15	50
NEW YORK					333	8,246	104	460
NO. CAROLINA							22	220
NO. DAKOTA							22	189
OHIO			9	89	70	1,296	72	756
OKLAHOMA								
OREGON							55	275
PENN.					296	11,840	87	870
RHODE IS.					16	540		

STATE	Drill Teams		Fencing		Field Hockey		Golf	
	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.
SO. CAROLINA	10	75					10	60
SO. DAKOTA	190	3,800					30	300
TENNESSEE							33	66
TEXAS							720	16,000
UTAH	56	1,676					7	22
VERMONT						1,202		34
VIRGINIA					51	1,357	28	54
WASHINGTON					1	50	66	508
W. VIRGINIA								
WISCONSIN							76	658
WYOMING								

STATE	GIRLS							
	Gymnastics		Ice Hockey		Lacrosse		Pentathlon	
	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.
ALABAMA	50	270						
ALASKA	14	280						
ARIZONA	38	673						
ARKANSAS	80	1,500						
CALIFORNIA	398	9,159						
CANADA								
Alberta	35	350						
British Col.								
Manitoba	48	1,332	37	244	18	255		
New Brunswick								
Newfoundland								
Nova Scotia								
Ontario								
P.E.I.								
Saskatchewan								
COLORADO	118	1,300						
CONNECTICUT	54	747						
DELAWARE	1	20			2	49		
DIST. OF COL.								
FLORIDA	66	1,013						
GEORGIA	70	2,200						
HAWAII	2	85						
IDAHO	37	710						
ILLINOIS	125	2,000						
INDIANA	179	4,000						
IOWA								
KANSAS	38	760						
KENTUCKY	27	325						
LOUISIANA	30	545						
MAINE	31	715						
MARYLAND	61	1,110			18	504		
MASSACHUSETTS								
MICHIGAN	133	3,752						
MINNESOTA	185	4,950						
MISSISSIPPI								
MISSOURI	60	1,383						
MONTANA	22	325						
NEBRASKA	24	285						
NEVADA	5	100						
NEW HAMPS.								
NEW JERSEY	123	3,690	1	25	27	675		
NEW MEXICO	23	450						
NEW YORK	228	4,530			16	875		
NO. CAROLINA								
NO. DAKOTA	31	858						
OHIO	311	4,870						
OKLAHOMA								
OREGON	72	1,440						
PFNN	129	2,580			74	2,860		
Rhode Island	23	492						

STATE	Gymnastics		Ice Hockey		Lacrosse		Pentathlon	
	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.
SO. CAROLINA	12	320						
SO. DAKOTA	40	800						
TENNESSEE								
TEXAS								
UTAH	55	1,276						
VERMONT		362						
VIRGINIA	102	1,610						
WASHINGTON	106	2,620						
W. VIRGINIA	5	112						
WISCONSIN	168	5,511						
WYOMING	12	315						



## GIRLS

STATE	Riflery		Rugby		Skiing		Soccer	
	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.
ALABAMA								
ALASKA					10	200		
ARIZONA	16	145						
ARKANSAS								
CALIFORNIA					16	260	24	646
CANADA								
Alberta					4	40		
British Col.								
Manitoba							88	1,198
New Brunswick								
Newfoundland							111	46
Nova Scotia								
Ontario								
P.E.I.								
Saskatchewan								
COLORADO					10	250		
CONNECTICUT								
DELAWARE								
DIST. OF COL.								
FLORIDA								
GEORGIA								
HAWAII	8	81						
IDAHO								
ILLINOIS							10	300
INDIANA								
IOWA								
KANSAS								
KENTUCKY								
LOUISIANA								
MAINE					20	176		
MARYLAND								
MASSACHUSETTS								
MICHIGAN					65	1,300		
MINNESOTA					53	1,042		
MISSISSIPPI								
MISSOURI								
MONTANA								
NEBRASKA								
NEVADA								
NEW HAMPS.					32	375		
NEW JERSEY							27	810
NEW MEXICO								
NEW YORK					51	1,280	258	7,258
NO. CAROLINA								
NO. DAKOTA								
OHIO							11	286
OKLAHOMA								
OREGON								
PENN.	77	1,035					13	260
RHODE IS.								

STATE	Riflery		Rugby		Skiing		Soccer	
	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.
SO. CAROLINA								
SO. DAKOTA								
TENNESSEE								
TEXAS								
UTAH								
VERMONT		18				244		
VIRGINIA							19	46
WASHINGTON							38	684
W. VIRGINIA								
WISCONSIN								
WYOMING					10	200		

## GIRLS

315

STATE	Softball		Swimming		Table Tennis		Tennis	
	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.
ALABAMA			40	350			160	360
ALASKA			14	300			6	80
ARIZONA	62	1,318	33	962			90	1,534
ARKANSAS			75	750			120	900
CALIFORNIA	711	18,069	426	12,593			691	14,638
CANADA								
Alberta	35	400	21	380			4	32
British Col.								
Manitoba			13	303	48	966	3	66
New Brunswick	32	576	14	175				
Newfouhdland	111	476			111	189		
Nova Scotia								
Ontario								
P.E.I.	8	96			5	25		
Saskatchewan								
COLORADO			68	2,040			83	1,100
CONNECTICUT	149	2,861	47	1,566			100	1,463
DELAWARE	42	837	10	239			30	446
DIST.OF COL.	12	216	5	30			5	30
FLORIDA	281	5,402	99	3,839			259	2,877
GEORGIA	10	200	105	3,150			165	1,650
HAWAII	31	682	32	559				
IDAHO								
ILLINOIS	412	5,356	133	3,192			328	4,264
INDIANA	57	1,300	136	3,200			204	3,100
IOWA								
KANSAS	19	380	19	390			107	1,605
KENTUCKY			42	1,000			105	1,075
LOUISIANA	111	2,220	19	95			118	354
MAINE	88	2,201	20	514			33	503
MARYLAND	104	2,150	20	400			95	893
MASSACHUSETTS								
MICHIGAN	466	12,582	190	5,510			284	8,236
MINNESOTA	175	2,720	108	3,058			168	3,682
MISSISSIPPI							82	1,200
MISSOURI	239	5,030	58	1,479			152	2,491
MONTANA			12	150				
NEBRASKA			24	421			38	430
NEVADA	27	405	6	200			26	184
NEW HAMPS.	80	2,000					30	300
NEW JERSEY	358	10,740	62	1,240			245	3,675
NEW MEXICO	23	450	16	320			37	370
NEW YORK	605	13,095	201	4,840			369	5,460
NO.CAROLINA	233	4,660	31	620			125	1,875
NO. DAKOTA	26	606	10	248			16	315
OHIO	455	9,099	84	2,520			281	3,051
OKLAHOMA	176	2,640					88	704
OREGON	40	720	74	1,480			87	609
PENN.	371	7,420	197	4,334			272	4,080
RHODE IS.							13	280

STATE	Softball		Swimming		Table Tennis		Tennis	
	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.
SO. CAROLINA	15	300	4	40			100	800
SO. DAKOTA	12	240	6	125			20	190
TENNESSEE							157	2,335
TEXAS	600	7,500	551	16,000			1096	25,000
UTAH	31	663	37	701			70	703
VERMONT		1,170		19				211
VIRGINIA	147	2,992	26	465			127	1,705
WASHINGTON	62	1,326	78	1,747			216	3,898
W. VIRGINIA	27	327	5	98			52	545
WISCONSIN	49	1,933	94	2,676			127	2,837
WYOMING			18	560				
PHILIPPINES	4	100	2	35			4	30

STATE	Track (Indoor)		Track (Outdoor)		Volleyball		Water Polo	
	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.
ALABAMA	30	250	150	1,100	220	7,750		
ALASKA			38	600	20	150		
ARIZONA			109	2,602	135	2,819		
ARKANSAS			100	1,500	150	2,000		
CALIFORNIA			597	13,798	839	21,300		
CANADA								
Alberta	4	60	145	2,470	169	2,930		
British Col.								
Manitoba			127	3,822	145	4,594	2	24
New Brunswick			29	500	41	615		
Newfoundland					111	995		
Nova Scotia								
Ontario								
P.E.I.			38	326	22	220		
Saskatchewan								
COLORADO			231	7,000	222	5,550		
CONNECTICUT			82	2,809	56	1,064		
DELAWARE			31	682	31	696		
DIST. OF COL.			12	180	12	216		
FLORIDA			310	6,906	313	5,327		
GEORGIA			285	8,600	30	600		
HAWAII			47	1,337	44	920		
IDAHO			119	2,249	97	2,135		
ILLINOIS			639	17,253	610	14,030		
INDIANA			435	11,900	487	11,800		
IOWA								
KANSAS	243	12,150	380	19,000	309	9,270		
KENTUCKY			198	4,775				
LOUISIANA			145	1,460	143	1,716		
MAINE			63	1,731	25	393		
MARYLAND	77	633	105	2,518	101	2,398		
MASSACHUSETTS								
MICHIGAN			537	22,554	462	12,012		
MINNESOTA			498	14,877	460	14,939		
MISSISSIPPI			232	3,480				
MISSOURI			514	15,008	410	11,354		
MONTANA			185	6,200				
NEBRASKA			361	5,161	364	6,694		
NEVADA			46	2,760	47	940		
NEW HAMPS.	10	200	40	1,000	13	130		
NEW JERSEY	54	2,160	203	10,150	79	1,580		
NEW MEXICO			114	3,500	101	3,000		
NEW YORK	97	1,452	397	11,950	634	11,580		
N. CAROLINA			131	3,930	125	1,875		
N. DAKOTA			235	5,396	35	709		
OHIO			1096	30,956	914	14,067		
OKLAHOMA			310	4,515	204	2,448		
OREGON			230	5,750	200	3,000		
PENN.			396	11,880	318	6,380		
Rhode Island			21	835	38	530		

STATE	Track (Indoor)		Track (Outdoor)		Volleyball		Water Polo	
	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.	No. Schools	No. Partici.
SO. CAROLINA			50	1,100	80	700		
SO. DAKOTA			190	4,750				
TENNESSEE			172	5,332				
TEXAS			1110	68,000	840	26,000		
UTAH			83	1,943	89	1,766		
VERMONT		14		528		110		
VIRGINIA	50	223	225	6,755	66	985		
WASHINGTON			305	7,722	268	6,799		
W. VIRGINIA			66	1,630	61	672		
WISCONSIN			403	21,010	404	15,538		
WYOMING			68	1,440	67	1,675		
PHILIPPINES			3	45	4	60		

# APPENDIX E

## Iowa Girls' High School Athletic Union Participation Growth 1970 through 1976

	BASKETBALL	FALL SOFTBALL	GOLF	TENNIS	SUMMER SOFTBALL	TRACK	DISTANCE RUNNING
1976-76	27,100	11,840	3,744	1,050	17,880	24,150	1,710
1974-75	25,300	11,640	2,516	1,030	16,640	23,750	1,640
1973-74	22,200	11,760	3,312	900	15,480	23,300	1,460
1972-73	17,100	11,560	2,964	860	13,480	21,150	1,330
1971-72	16,300	10,800	2,700	820	12,080	19,000	820
1970-71	15,000	9,840	2,424	740	10,200	17,550	850
	SWIMMING	GYMNASTICS	COED GOLF	VOLLEYBALL	COED TENNIS	SYNCHRO SWIMMING	
1975-76	1,590	765	488	2,020	264	88	
1974-75	1,590	750	440	1,700	228	128	
1973-74	1,560	810	340	1,580	184	128	
1972-73	1,440	735	332	1,520	196	96	
1971-72	1,380	630	308	1,080	104	64	
1970-71	1,140	450	248	800	92	112	

### Total Individual Participation Per Year

1975-76	92,689
1974-75	88,352
1973-74	83,014
1972-73	72,763
1971-72	66,086
1970-71	59,446

## APPENDIX F

National Federation of State High School  
Associations' Recommended Athletic  
Eligibility Standards

It is recommended (not required) that state associations adopt eligibility standards at least as restrictive as those contained in this section. Due to increased interstate competition and more numerous non-school sponsored athletic programs for high school age students, the need for more uniformity in eligibility standards between states is increasingly apparent. Minimum eligibility requirements should be re-evaluated periodically to insure that they serve their purpose of protecting both the high school participants and the interscholastic program.

1. 19-Year Rule. Students become ineligible when reaching their nineteenth birthday.

2. 8-Semester Rule. In a four-year high school, students may participate for eight consecutive semesters, or in a three-year senior high, for six consecutive semesters. Attendance of 15 days of any semester shall count as a semester of participation.

3. Semester Scholarship Rule. Students are required to do passing work in at least fifteen periods (three full credit subjects) per week. Failure to earn passing semester marks in three full credit subjects shall render a student ineligible for the following full semester. The record at the end of the semester shall be final and scholastic deficiencies may not be removed for the purpose of meeting minimum eligibility requirements.

4. Amateur Rule. Students become ineligible for participation in all sports if they violate the following Amateur Rule in any sport:

- (a) Participating under an assumed name.
- (b) Competing on a team on which one of the players was paid.
- (c) Entering into a playing contract with a professional club or agent.
- (d) Using athletic skill for financial gain.
- (e) Accepting a fee for officiating or for working as an instructor in other than a recognized recreation program. (Working as a registered official is a violation.)



5. Awards Rule:

- (a) Accepting cash or any merchandise award. All awards shall be symbolic in nature with no intrinsic value.
- (b) Accepting a symbolic award, from any source, in excess of the amount established by the state association.
- (c) Accepting a trip to a University contest which is not within the standards contained in the Recruiting Code of Good Conduct.
- (d) Accepting expenses for attending a summer athletic camp from any person (other than parents or legal guardian) or organization.

A state association may adopt provisions for reinstating a student who has violated the Amateur and Award Rules provided there is at least one year of ineligibility from the date of the violation.

6. Non-School Participation Rules: Participation on a non-school team in a sport during the same season athletes are representing their schools in that sport shall cause them to become ineligible. Each state association shall establish seasons of competition during the school year for out-of-season participation.

7. Transfer Rule. An athlete who transfers enrollment corresponding with a change of residence of parents or legal guardian shall be considered eligible as soon as properly certified. Students transferring schools without a corresponding change of residence of the parents or legal guardian from a district where they had been in attendance to the new district, or if there has been no change of residence, shall attend one calendar year from the date of enrollment at the school to which they transferred in order to establish eligibility.

8. Recruiting Rule. Transfer from one school to another for athletic purposes because of undue influence by anyone connected with the school shall cause a student to forfeit remaining high school eligibility.

9. Enrollment Rule. In order to establish eligibility a student must enroll not later than the beginning of the eleventh school day of any semester.

10. Grade Rule. To be eligible, a student must be in 9th grade or above and not graduated from high school.

11. Physician's Certificate Rule. A student must present, during the year and prior to competition, a physician's certificate of physical fitness for athletic participation.

12. Specialized Camp Rule. A student shall become ineligible in a sport for one calendar year from the date of last offense if participating in a specialized camp, school, clinic or other similar program involving coaching and instruction in that sport unless the program and participation meet the following requirements:

- (a) It has been presented to and approved by the Board of Control of the state high school association.
- (b) The camp program does not include any type of competition other than customary practice situations.
- (c) The fee (tuition) is provided by the student or student's parents.
- (d) No school uniform or equipment shall be used.
- (e) Participation in a specialized athletic camp, school clinic or similar program in any one sport shall not be longer than 2 weeks in any calendar year.

A SCHOOL SHALL NOT:

1. Coaches Rule. Permit coaching by anyone who is not a certified teacher regularly employed by the Board of Education and whose entire salary is paid by that body; or who has fewer than three regular periods of classes, gymnasium or study hall duty per day.

2. Sanction Rule. Enter any meet or tournament involving more than two schools, or any interstate game involving a round trip of more than 600 miles; unless it has been sanctioned by the state high school association, and, if more than one state is involved, by the National Federation.

3. Officials' Registration Rule. Use any paid athletic official who is not registered with the home high school athletic association and is qualified according to the standards of such state association.

4. All-Star Contest Rule. Permit use of its facilities nor of its employees, directly or indirectly, in the management, coaching, officiating, supervision, promotion or player selection of any all-star team or contest involving high school players or those who, during the previous school year, were members of the high school team, unless such contest is first sanctioned by the State High School Athletic Association or, if interstate, by the National Federation of State High School Associations.

5. Club Team Rule. Permit the use of the high school name in connection with athletic or activity competition unless the Board of Education has approved the use of the school name and assumes responsibility for the team using the school name.

## APPENDIX G

## Title IX Regulations - Section 86.41

General:

No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by a recipient, and no recipient shall provide any such athletics separately on such basis.

Separate Teams:

Notwithstanding the requirements of paragraph (a) of this section, a recipient may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but operates or sponsors no such team for members of the other sex, and athletic opportunities for members of that sex have been previously limited, members of the excluded sex must be allowed to try out for the team offered unless the sport involved is a contact sport. For the purposes of the Part, contact sports include boxing, wrestling, rugby, ice hockey, football, basketball and other sports the purpose or major activity of which involves bodily contact.

Equal Opportunity:

A recipient which operates or sponsors interscholastic intercollegiate, club or intramural athletics shall provide equal athletic opportunity for members of both sexes. In determining whether equal opportunities are available the Director will consider, among other factors:

- (i) whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes.
- (ii) the provision of equipment and supplies.
- (iii) scheduling of games and practice time.
- (iv) travel and per diem allowance.
- (v) opportunity to receive coaching and academic tutoring.
- (vi) assignment and compensation of coaches and tutors.

- (vii) provision of locker rooms, practice and competitive facilities;
- (viii) provision of medical and training facilities and services.
- (x) publicity.

Unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams if a recipient operates or sponsors separate teams will not constitute noncompliance with this section, but the Director may consider the failure to provide necessary funds for teams for one sex in assessing equality of opportunity for members of each sex.

Adjustment Period:

A recipient which operates or sponsors interscholastic . . . club or intramural athletics at the elementary school level shall comply fully with this section as expeditiously as possible but in no event later than one year from the effective date of this regulation. A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics at the secondary or post-secondary school level shall comply fully with this section as expeditiously as possible but in no event later than three years from the effective date of this regulation.

## APPENDIX H

## Title IX Questions and Answers

Question:

What is Title IX?

Answer:

Title IX is that portion of the Education Amendments of 1972 which forbids discrimination on the basis of sex in educational programs or activities which receive Federal funds.

Question:

Who is covered by Title IX?

Answer:

Virtually every college, university, elementary and secondary school and preschool is covered by some portion of the law. Many clubs and other organizations receive Federal funds for educational programs and activities and likewise are covered by Title IX in some manner.

Question:

Who is exempt from Title IX's provisions?

Answer:

Congress has specifically exempted all military schools and has exempted religious schools to the extent that the provisions of Title IX would be inconsistent with the basic religious tenets of the school.

Not included with regard to admission requirements only are private undergraduate schools, nonvocational elementary and secondary schools and those public undergraduate schools which have been traditionally and continuously single-sex since their establishment.

However, even institutions whose admissions are exempt from coverage must treat all students without discrimination once they have admitted members of both sexes.

Question:

In athletics, what is equal opportunity?

Answer:

In determining whether equal opportunities are available, such factors as these will be considered:

- whether the sports selected reflect the interests and abilities of both sexes;
- provision of supplies and equipment;
- game and practice schedules;
- travel and per diem allowances;
- coaching and academic tutoring opportunities and the assignment and pay of the coaches and tutors;
- locker rooms, practice and competitive facilities;
- medical and training services;
- housing and dining facilities and services;
- publicity.

Question:

Must an institution provide equal opportunities in each of these categories?

Answer:

Yes; however, equal expenditures in each category are not required.

Question:

What sports does the term "athletics" encompass?

Answer:

The term "athletics" encompasses sports which are a part of interscholastic, intercollegiate, club or intramural programs.

Question:

When are separate teams for men and women allowed?

Answer:

When selection is based on competitive skill or the activity involved is a contact sport, separate teams may be provided for males and females, or a single team may be provided which is open to both sexes. If separate teams are offered, a recipient institution may not discriminate on the basis of sex in providing equipment or supplies or in any other manner.

Question:

If there are sufficient numbers of women interested in basketball to form a viable women's basketball team, is an institution which fields a men's basketball team required to provide such a team for women?

Answer:

One of the factors to be considered by the Director in determining whether equal opportunities are provided is whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes. Therefore, if a school offers basketball for men and the only way in which the institution can accommodate the interests and abilities of women is by offering a separate basketball team for women, such a team must be provided.

Question:

If there are insufficient women interested in participating on a women's track team, must the institution allow an interested woman to compete for a slot in the men's track team?

Answer:

If athletic opportunities have previously been limited for women at that school, it must allow women to compete for the men's team if the sport is a noncontact sport such as track. The school may preclude women from participating on a men's team in a contact sport. A school may preclude men or women from participating on teams for the other sex if athletic opportunities have not been limited in the past for them, regardless of whether the sport is contact or noncontact.



## APPENDIX I

## Table of Cases

- Allen v. California Interscholastic Association, No. S2586  
(E.D. Calif. 1972).
- Barrett v. Ohio High School Athletic Association, N.E. 2nd  
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- Brandstetter v. Indiana High School Athletic Association,  
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